

# LOUISIANA BAR JOURNAL

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**H. Minor Pipes III**  
81<sup>st</sup> LSBA President  
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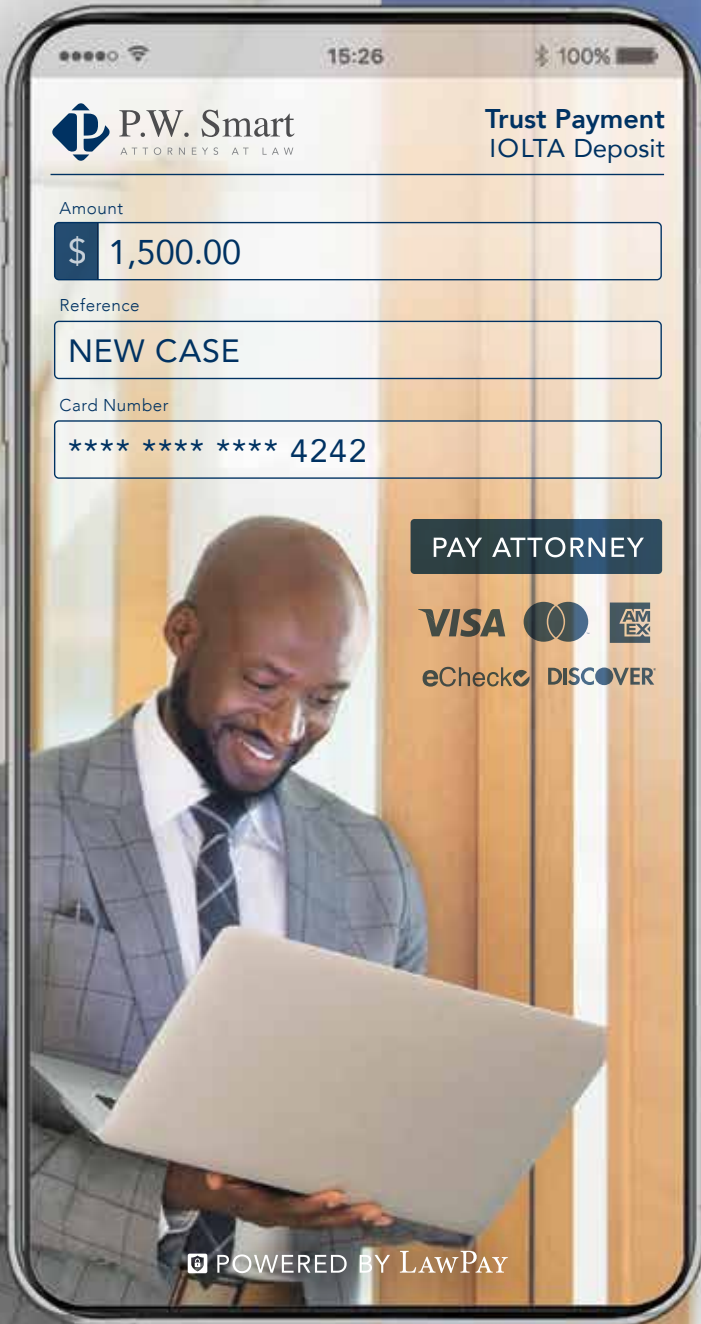
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On the Cover: H. Minor Pipes III, the 81st president of the Louisiana State Bar Association, with his wife, Jill McKay Pipes, and their three sons, ages 14, 16 and 18, George, Charlie and Henry. Photo by Paul Morse Photography.

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By C.A. (Hap) Martin III

# “Johnny-Come-Lately”

This is my first Editor’s Message and I am still trying to understand how I got here. Obviously, it was a case of temporary insanity. I was trained as an engineer with only one English course in college. That is not exactly the background for someone “in charge of” one of the most-well-respected journals for the legal profession.

However, my training taught me early on to check out the underlying facts. As I have witnessed from my time on the Editorial Board, the *Louisiana Bar Journal* benefits from an amazingly talented group of Communications Department staff and a dedicated Editorial Board who do the lion’s share of the work. The combined assets of staff talent and Editorial Board input will make this job possible for a novice like me. I am honored, and somewhat intimidated, to have this wonderful opportunity.

I am a “Johnny-Come-Lately” to working in the Louisiana State Bar Association (LSBA). Early in my career, the LSBA was, at least in my mind, a group that I

paid to be able to practice law, but otherwise did not think about much. That was a very short-sighted view on my part. It is only in the last 10 to 12 years of my 40 years of practice that I have become active in Bar activities, and I have to admit that I missed out on a lot of opportunities because of that. The opportunities I speak of are not related to the work as much as they are to the missed opportunities to meet lawyers I would never otherwise cross paths with professionally. In the last few years, I have met new friends, including the last several editors of the *Journal*, who share many of the same interests and a love of our profession which has provided to us our life’s work.

Even more importantly, I have come to understand the wide-reaching and important work that is done by the LSBA. As a young and mid-career lawyer, I understood the need for access to justice, but I never understood how important our Bar dues were to help make that access more of a reality. I was unaware of all the services that we provide through the LSBA, including the support for judges, lawyers,

their families and staff through the Judges and Lawyers Assistance Program and numerous other programs that benefit both the public and Louisiana lawyers.

In my early years, my firm did not emphasize involvement in the LSBA, and, therefore, I spent my time on other things, many of them worthy causes. But, I missed out on some opportunities to meet and get to know other lawyers, now considered friends. I encourage the “more seasoned” lawyers like me to become more active in the LSBA, and you will discover a wealth of experiences that will benefit you in many ways. It is not too late. To the younger lawyers, do not miss out on the opportunities to interact with lawyers, young and old, who will help you grow as a lawyer and as a person.

Take it from a “Johnny-Come-Lately.” It will be well worth the effort.

## Letters to the Editor Policy

1. At the discretion of the Editorial Board (EB), letters to the editor are published in the *Louisiana Bar Journal*.

2. If there is any question about whether a particular letter to the editor should be published, the decision of the editor shall be final. If a letter questioning or criticizing Louisiana State Bar Association (LSBA) policies, rules or functions is received, the editor is encouraged to send a copy of that letter to the appropriate entity for reply within the production schedule of the *Louisiana Bar Journal*. If the editor deems it appropriate, replies may be printed with the original letter, or in a subsequent issue of the *Louisiana Bar Journal*.

3. Letters should be no longer than 200 words.

4. Letters should be typewritten, signed and, if applicable, include LSBA member number, address and phone number. Letters from non-members of the LSBA also will be considered for publication. Unsigned letters are not published.

5. Not more than three letters from any individual will be published within one year.

6. Letters also may be clarified or edited for grammar, punctuation and style by staff. In addition, the EB may edit letters based on space considerations and the number and nature of letters received on any single topic. Editors may limit the number of letters published on a single topic, choosing letters that provide

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7. Letters may pertain to recent articles, columns or other letters. Letters responding to a previously published letter should address the issues and not be a personal attack on the author.

8. No letter shall be published that contains defamatory or obscene material, violates the Rules of Professional Conduct or otherwise may subject the LSBA to civil or criminal liability.

9. No letter shall be published that contains a solicitation or advertisement for a commercial or business purpose.





# One on One with H. Minor Pipes III, 81<sup>st</sup> LSBA President:

## *A Fifth-Generation Louisiana Lawyer, Pipes Discusses the Legal Profession in the “New Frontier”*

Interviewed by C.A. (Hap) Martin III

*H. Minor Pipes III is a founding member of the New Orleans firm Pipes Miles Beckman, LLC. He was selected as a member of the inaugural Leadership LSBA class, an investment by the Louisiana State Bar Association (LSBA) that has paid off well as he was sworn in as the 81st LSBA president in June.*

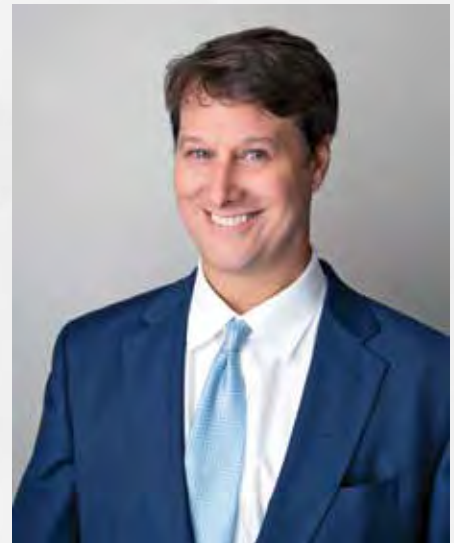
*Pipes, a fifth-generation Louisiana lawyer, was originally from Houma. After attending Louisiana State University for two years, he transferred to Penn State University where he received his BA degree in history in 1991. He returned to Louisiana and attended Louisiana State University Paul M. Hebert Law Center where he earned his JD degree in 1996. He was admitted to the practice of law in Louisiana in 1996.*

*He served as the LSBA president-*

*elect in 2020-21 and the LSBA treasurer in 2016-18. He represented the First District on the Board of Governors and has served in the House of Delegates. He has co-chaired the LSBA's Summer School for Lawyers and participated as a speaker in that program. He received the LSBA's President's Award in 2009. He also served as the 2015-16 president of the Louisiana Bar Foundation.*

*Pipes has been recognized by Louisiana Super Lawyers as one of the Top 50 Lawyers in Louisiana. He also has been recognized as a Top Lawyer by New Orleans Magazine, as a leading lawyer in New Orleans by Best Lawyers and New Orleans CityBusiness, and as a “Litigation Star” by Benchmark Litigation.*

*In his community, he volunteers his*



*time with Hogs for the Cause, KidsmART and Trinity Episcopal School.*

*Pipes is married to Jill McKay Pipes and they are the parents of three sons, ages 14, 16 and 18.*

(Left) H. Minor Pipes III and family: from left, Henry, George, H. Minor Pipes III, his wife Jill McKay Pipes, and Charlie. Photo by Paul Morse Photography.

(Above) H. Minor Pipes III, the 81st president of the Louisiana State Bar Association.



H. Minor Pipes III with former LSBA President Joseph L. (Larry) Shea, Jr., at the 2015 LSBA Access to Justice Pro Bono Awards held at the Louisiana Supreme Court in New Orleans.

*Photo by Matthew Hinton Photography.*

**Martin:** You've practiced your entire career in New Orleans, but I understand you are originally from Houma.

**Pipes:** Yes, I was born and raised in Houma, but, interestingly enough, my mother is from New Orleans, my father's mother is from New Orleans and my father's grandfather is from New Orleans. So, the Pipes family comes from New Orleans, married somebody from Houma and moved to Houma, and then went back to New Orleans to find their spouses. I was born in Touro Hospital in New Orleans. My mother grew up on Webster Street in New Orleans and preferred to have children there. She drove to New Orleans every time she was about ready to give birth, stayed with her parents and would go to the hospital to have us. So, I always spent a lot of time in New Orleans.

I left home when I was 17 to go to LSU. I spent two years at LSU because I knew I was paying for it and got a scholarship there. I got my free ride at LSU before I transferred to Penn State. I went

to Penn State and I have not lived in Houma, except between school breaks, since I was 17.

My father passed away and I moved home. I spent six months in Houma, sort of getting everything straight before going to law school. After law school, I knew I wasn't going back to Houma because, at that point, I'd lived at Penn State and in DC, so my choices were between Houston or New Orleans. I decided to take a pay cut and go to New Orleans and never looked back.

**Martin:** Let's talk more about your education. Why did you go to college at Penn State?

**Pipes:** I always wanted to get away. We always traveled a lot when I was a child. I just had it in my head that going away to school would let me understand if I ever wanted to be back here or not. I wanted to end up where I was supposed to be, and I felt like you had to leave to do that. It was a natural thing for me to try something else out. And, it made me

respect it a lot more when I came home.

**Martin:** What was your course of study there?

**Pipes:** History.

**Martin:** Then, you came back to attend law school at LSU.

**Pipes:** I did. I would have been a fifth-generation Tulane law graduate. By that point, all those grads were not around to pay for it. LSU had more scholarship money and less tuition, and so it made more sense.

**Martin:** As you mentioned, you are a fifth-generation lawyer. Explain the family history.

**Pipes:** My great-grandfather had a JD but didn't practice a whole lot. He was a sugar farmer by trade.

**Martin:** Did your great-grandfather read the law?

**Pipes:** He did. He was in the Legislature so he helped write the law, but he didn't really practice. Then my great-grandfather grew up in New Orleans, went to Tulane, married a farmer's daughter and moved to Houma to run the plantation. Actually, he ended up becoming a heck of a farmer. I remember reading about him in a book when I was a kid. He figured out the cross strain of sugar that allowed it to deal with Houma's swampiness. So, instead of them getting half the sugar they were getting out of planting, it increased significantly.

Then my grandfather was a lawyer. He went to Washington and Lee first and then he went to Tulane Law School. He started practicing in Houma and practiced there until a year or two before he died.

My father went to Tulane and then Tulane Law School. He thought he was going to work in New Orleans and got an apartment. After he graduated, my grandfather said, "Oh, I didn't tell you? You're coming to work with me." For a year, he commuted to Houma because my mother wasn't sure she wanted to move there. Ultimately, she moved there and lived there for 40 years and loved it.

Interestingly enough, I never wanted to be a lawyer. Because I was the "III," everybody assumed I would just follow in their footsteps. I wanted to make my





Minor, Jill and sons Henry, George and Charlie at the 2015 Louisiana Bar Foundation Fellows Gala. Photo courtesy Louisiana Bar Foundation archives.



Jill and Minor Pipes at the 2015 Louisiana Bar Foundation Fellows Gala. Photo courtesy Louisiana Bar Foundation archives.

own path, which is probably why I went away for school. I was two years out of undergrad before I even thought about law school.

**Martin:** What did you do during those two years?

**Pipes:** I ran a McDonald's.

**Martin:** A real-life education.

**Pipes:** When I went to Penn State, I had been working all my life. I started throwing papers when I was 11. I had full-time jobs from when I was 17 on. I went to Penn State and, at that point, I had bought a car. I had a car note and I thought I'll just get a job waiting tables or bartending or one of the things I've done for years. I went out there, I was 19, but was too young to work in a bar in Pennsylvania. You only had to be 18 here. I couldn't get a job because it was a town of just 25,000 people with 50,000 undergrads. So, all those jobs went from fraternity brother to fraternity brother or a little brother. The only place hiring was McDonald's. I walked in, gave them my schedule and said, "I got to make this much money a month.

If you can give me that much work, I'll take a job." So I started working there. By the time I graduated, I was running shifts. I was a history major and I didn't have a job. The guy that oversaw the McDonald's from the company side offered me a job anywhere in the county I wanted to go, and I went to DC. He gave me a store, running it with somebody else, and I did that for two years.

**Martin:** What made you decide to leave that career and go to law school?

**Pipes:** My father passed away. When my Dad died, I packed up. I came home for a month so I could help my family figure out what to do. Since my father was a solo practitioner, I hired a lawyer to run his practice and to close everything down. I went back to DC to wrap everything up. I quit my job, came home and started bartending again. I took the LSAT in February and started law school in August.

**Martin:** If you didn't think you would be a lawyer before, why did that change?

**Pipes:** You know, it was about the

time my father died, or probably a few months before, I started realizing what I really wanted to do; it was what I was good at. I had been in debate in high school. I knew, as my sister said, I liked to argue. It just seemed before that, I never really wanted to go back to school and get a degree like that, but it just kept calling to me. After a while, when you're working three jobs, you're making \$25,000 a year, you're not really going anywhere, you're having a good time, you start thinking, where's my future? I knew I wasn't going to do that for forever. So, unless I wanted to get on the ownership train and figure out a way to turn it into a business, law school seemed like it made sense.

**Martin:** Did you ever work in your father's law office growing up?

**Pipes:** I worked there as a runner. I would file things at the courthouse, things like that. I would do books over there. I was always pretty good with numbers so I would do that, but that was about it.

Continued next page



Jill and Minor Pipes at the 2002 Annual Meeting in Destin, Fla.  
*Photo from LSBA archives.*



Jill and Minor Pipes with their eldest son, Henry, at the 2002 Annual Meeting in Destin, Fla. *Photo from LSBA archives.*

**Martin:** What kind of practice do you have?

**Pipes:** All litigation. Eighteen lawyers. We do probably 99% defense work. Every now and then, we get a plaintiff's case. But, for the most part, it's insurance, bad faith and coverage litigation. We do a decent amount of construction litigation and just general practice.

**Martin:** What's your favorite type of case?

**Pipes:** Anything that gets me in the courtroom. I tell people, I'd wear a suit every day if they let me go to court every day.

**Martin:** Since you like to go to court, what was your worst day in court so far?

**Pipes:** I was a young lawyer. I filed three exceptions in a case that I thought I should win. Two of them were gut cinch winners, and one of them was weak as could be. The judge granted the weakest one and denied the other two as moot. They took a writ and it scared the daylights out of me that I had screwed it up. So, I teach my young lawyers, don't make arguments you're afraid to win.

**Martin:** What was your best day in

court so far?

**Pipes:** I had a jury trial in federal court and it was a huge case. I had a jury that got it. It was a tough case, lots of claims, and I get a verdict that could've gone either way. It went very well. It was a defense verdict, so it was the right decision for my client, but I was afraid that they would split the baby. But they didn't. They did a good job. Watching a jury come out, and you can tell when they get it, and they got it. It was just, you could feel it. I told my wife, "You need to come watch it. They're about to do the right thing." And they did.

**Martin:** Since you've got such a family history, were your predecessors in the law involved in the Louisiana State Bar Association?

**Pipes:** My father was in the House of Delegates, I believe, early in his career. But after he started his family, he got out of it. Part of that may be because he was in Houma and it was a small town back then. There weren't many people to cover for him. Another reason may be because he was involved with many other things. My father and grandfather were always involved in different things. My father volunteered and ran

the Red Cross in Houma for a while. During the hurricanes, I remember we would go way down the bayou to see the damage. For me, as I got into my law career, it made sense to me that becoming involved with the LSBA would be a good thing. If I was going to be a lawyer, I might as well have something to do with the Bar. It just sort of evolved.

**Martin:** You were a member of the inaugural Leadership LSBA Class. How did that come about?

**Pipes:** Larry Feldman appointed me to it, and that was back when a lot of the barons of the Bar were right there in that group. Guy deLaup, Frank Neuner, Marta Schnabel, Beth Foote and Wayne Lee, all those people were present right in the time period. They were the leadership and they were the ones who showed me the ropes. When you have leaders like that who you look up to, it's really easy to follow them.

**Martin:** Obviously, the experience took hold. You've held the positions of LSBA treasurer and president-elect and now president. You've also been the treasurer of the Judges and Lawyers Assistance Program. You are also a





Minor Pipes at the 2009 Annual Meeting in Destin, Fla.  
*Photo from LSBA archives.*



Jill McKay Pipes, H. Minor Pipes III and Robert A. Kutcher at the 2011 LSBA Annual Meeting in Las Vegas, Nev. *Photo from LSBA archives.*

former president of the Louisiana Bar Foundation. I say that they were very successful in getting you cranked up.

**Pipes:** It's just one of those things. It probably started with attending Summer School. I started as a young lawyer going to Summer School. I remember going before I had children and my oldest is now 18. We just started going and got more and more involved. I started giving speeches, got involved with programming, and I sort of worked my way around from the House of Delegates, to the Board of Governors and up to the leadership.

**Martin:** What do you have to say to young lawyers about becoming active in the Bar?

**Pipes:** It's your career. If you don't get involved with it, somebody else is going to tell you what to do. I tell the young lawyers in my firm that I think, across the board, we're all very lucky to have the jobs we have. We worked hard to get here and it's not an easy job. We have a good, stable career. If you work hard, you can do well, and we have an obligation to give back. Whether that is working in your kids' schools or volunteering at the food bank or getting in-

involved in the Bar, you need to find what drives you to become involved. You owe that to society. I think that the history of our profession has always been coupled with leadership. For me, it was easy to choose that path because, frankly, if I want to be a lawyer and I want to have a voice in how my career goes, I should speak up and become involved in the Bar. But for those who don't want to become involved in the Bar, they should definitely find something else that they enjoy. For me, it was always an easy call.

**Martin:** This interview is being conducted four days before the one-year anniversary of the start of the COVID-19 pandemic. What do you think your biggest challenge is going to be for your presidency?

**Pipes:** I think the biggest challenge will be figuring out how to get things back to as normal as possible in the profession without ignoring the changes that have happened. At the end of the day, you're not going to, on a regular basis, be in a courtroom full of people. Whether that means hearings will be staggered or you wait in the halls until you're called, I think there's going to be

changes. Right? I don't know if Zoom depositions are here to stay, but definitely things will be different. I think the important thing is not to lose those things that we've gained. We have figured out technology in a way that was needed for some time — whether it was from the court figuring it out or through the lawyers. But, that's a good thing. There's no reason if I've got a five-minute status conference in Alexandria that I need to drive for four hours and 20 minutes. But now judges are used to that. It's much more likely we can work something out. I think that's a good thing, but I think we need to figure out a way to get back to being able to move our cases, whether it's through trials or mediations or taking depositions. I think things have been at a standstill for a period of time. So, I'm looking forward to helping come up with that happy medium that allows both to happen.

**Martin:** How has the last year affected your outlook on access to justice?

**Pipes:** I think access to justice has lots of pieces to it. From a criminal perspective, for example, clearly there are issues with getting people proper representation and allowing them the ability

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Christopher K. Ralston, Marta-Ann Schnabel and H. Minor Pipes III at a 2015 Louisiana Bar Foundation event.  
*Photo courtesy Louisiana Bar Foundation archives.*



H. Minor Pipes III at the 2016 Louisiana Bar Foundation Fellows Gala Awards Luncheon.  
*Photo courtesy Louisiana Bar Foundation archives.*

to meet with their lawyers and having the ability to have hearings and trials as quickly as you need to. I don't do criminal law, but I have absolutely no doubt that it has affected that process immensely. On the civil side, where you're talking about people who need assistance getting out of bad relationships and they need assistance with divorces, I would assume that, without really having looked at it, volunteer hours are way down because people are trying to take care of themselves right now, and that makes sense. But you have people who are going unserved. They were already having trouble getting served, but now it is even worse. Without the courts opened like they could be, it's not like you can just show up and look for a lawyer to help you. I think we've got a huge problem and we have to address it.

**Martin:** How do you see the Bar Association helping the lawyers in Louisiana with their recovery from the pandemic?

**Pipes:** I think working with the courts on making logical changes to the rules, on making logical changes to how we schedule things, and I think, quite frankly, getting jury trials going again. I think it is the most important thing we can do. And it's not an easy answer. It's not like you can say, "Okay, April 1 is the day. Let's hope people show up." Right? We've got to figure that out. Is it doing like some courts do, where there is going to be one jury in the entire courthouse and the judges decide which case gets tried? I don't know, but we've got to figure out a way to get people back to work.

**Martin:** The LSBA staff is sometimes the unknown and unsung heroes behind the scenes. How do those staff members help you in your new position now?

**Pipes:** It's a major understatement to say that they are under-appreciated. They are absolutely under-appreciated. I would say that, throughout my career

with the Bar, the staff has helped me immeasurably — whether it's handling Summer School with Annette Buras, whether it's Cheri Grodsky helping put together CLEs with us, whether it's Loretta Larsen who's always there to answer questions and give you wise advice whenever you're smart enough to ask, whether it's just the regular staff that helps make all the events run smoothly. When we show up for a Board or House meeting, it's amazing to me that they are able to keep everything moving in the right direction. I think that we have a staff that is second-to-none. They deserve every accolade they get, plus more.

**Martin:** I agree with you there. Since you're from a "semi-rural area" originally, how do you respond to lawyers from the rural parishes and others who say that the Bar Association has no relevance to them?

**Pipes:** I like that the basis of that comment is usually based on a very fo-



## LIGHTNING ROUND: Think Fast

**Martin:** Shoes, lace up or loafers?

**Pipes:** Loafers.

**Martin:** Belts or suspenders?

**Pipes:** Belt.

**Martin:** Neckties or bowties?

**Pipes:** Necktie.

**Martin:** You ever wear a bowtie?

**Pipes:** Rarely. With black tie or white tie. There's usually a black coat involved.

**Martin:** Since you're actively involved in CLE programs, do you prefer live or by Internet?

**Pipes:** Live.

**Martin:** With your family history: research preference, book or Internet?

**Pipes:** I guess now Internet, because it's hard to forget you've got the little computer in your hand at all times. But I love pulling out a book. My kids think it's funny when I pull a book off the shelf and say, "Look at this!"

**Martin:** Stand up or sit-down desk?

**Pipes:** I do both. I'm sitting down right now, but I probably stood for three of the last four hours. So, I use them both.

**Martin:** Zoom conference or telephone conference?

**Pipes:** Zoom.

**Martin:** Talking with a client: Telephone or email?

**Pipes:** I'd rather be in person, but I would say telephone; probably do more emails, but I'd rather talk.

**Martin:** Paper or paperless office?

**Pipes:** Paperless. Paperless, but I have paper all over my office. We are paperless, as the case goes away so does the paper. But I still have paper everywhere.

**Martin:** Old courthouses or modern courthouses?

**Pipes:** I love an old courthouse, if it's kept up. There's nothing sadder to me than one falling down. But I love a good old courthouse. You can't build them like that anymore.

**Martin:** Filing pleadings: walk to the courthouse or over the Internet?

**Pipes:** Over the Internet. I always have somebody file for me. I always worked at a big firm so I never did it myself. My father did, and I used to walk and file it for him, but I guess, for me, it's just easier to make sure you got it filed.

**Martin:** That's it and there are no prizes!

cused view of the world that ignores a lot of things that are relevant. I know some lawyers may say, "Look, they don't give me cases. They don't handle anything that relates to me. I live in a small town. I have my own clients and I go to the courthouse every day. What is the Bar Association? Why am I paying them money?" The relationships between the lawyers, the courts and the judges, and the rules allowing the way that we practice, are important. The Bar Association enters into discussions with the court all the time on how to make sure that the process actually works like it should. We deal with making sure that filing fees don't get out-of-this-world so that you can't afford to go to court. We, obviously, have a lot to do with supporting Rules of Professional Conduct that make sense. We are very big on trying to help lawyers of all backgrounds when they have issues with their clients. If a

client has a complaint, we can get involved before it gets to the Disciplinary Counsel. What the Bar gives each lawyer is somebody looking out for their well-being, while, at the same time, somebody who is a phone call away that can, at a minimum, point them in the right direction or give them the guidance they need on almost any issue. If you come to us and say, "Look, I'm not sure if this violates the rules or not," we can give you an ethics opinion. There are so many pieces to what we do and what so many people use us for, that to me, it's naive to think that we're not working for you even if you don't know it.

**Martin:** Similar question, because I am sure you hear this one as well, particularly since you were the previous LSBA treasurer. How do you respond to the lawyers who say their dues are too high? What do they gain from their dues?

**Pipes:** First of all, they should know that about half of the dues they pay goes to the Bar Association. The other half is a disciplinary assessment that runs the Office of Disciplinary Counsel and has nothing to do with the Bar Association. Although the Bar Association collects the money for the ODC, you should understand that that's not money for the Bar Association. That's simply to make it easier for lawyers to pay one place and then we send ODC a check. So, your dues are about half of what a lot of people assume they are. But, what do you get for that? You pay what I consider to be a relatively small amount of money and, in exchange, you get the support of the entire Bar Association, which has about 40 employees, all of the leadership, you get the House of Delegates, the Board of Governors who are making sure that you've got a profession to act upon. What you

Continued next page



Minor Pipes addressed the House of Delegates at the 2015 Annual Meeting and Joint Summer School in Destin, Fla. Photo by Matthew Hinton Photography.

don't want in the practice of law is what you've got in the construction industry, where you can have somebody call themselves a contractor and could be anything from a guy who paints fences for a living to the guy who builds skyscrapers, and everything in between and they're all the same. We never want people to not understand what being a lawyer is versus a public adjuster, or versus somebody who's a notary, or something else. So, it's really important to us that we not only support that but we make it in a way that if you're going to be a practicing lawyer, you can do it. If you need MCLE credit, we put you in a situation where you can go get it, whether it's paid for, special programming or free programming. We support all the local Bars so they can help you in your locale. To think that the Bar Association is something only for the big firms in New Orleans is crazy. Those firms don't need the support that the small practitioners need. The solo and small practice lawyers are the largest group of lawyers in the Bar. We

have more programming for them than anyone. So, instead of asking what they do for me, you should ask, how do I get involved so that I can be more involved in doing those things.



H. Minor Pipes III is sworn in as president of the Louisiana Bar Foundation by Louisiana Supreme Court Chief Justice Bernette Joshua Johnson with LBF officer E. Jane Sherman at the 2015 Louisiana Bar Foundation Fellows Gala. Photo courtesy Louisiana Bar Foundation archives.

**Martin:** Tell us about your family.

**Pipes:** I have been happily married for 22 years to Jill McKay, whose father and brother were both lawyers. She's from Baton Rouge. We met when I was at LSU Law Center. We have three sons, ages 14, 16 and 18 — George, Charlie and Henry. I have no idea what any of them are going to do when they grow up. Of course, they all talk about being lawyers, but I think that's because I'm a lawyer. I'll be shocked if they all end up there, but at least one of them probably will.

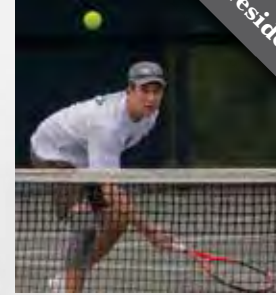
**Martin:** Do you think there will be a sixth-generation Pipes lawyer?

**Pipes:** I would think, and I only say that because I know so many people's kids who ultimately ended up going to law school. I think one of them probably will, although there's no pressure there. I come from a big family. I'm one of seven, five sisters and one brother. I like family. I like a lot of people around.

**Martin:** What are your passions or hobbies outside of the law?

**Pipes:** My family. I like to travel. I like to read. I like to play tennis. I like experiences. I'm a big sports fan so I go to a lot of live sporting events, at least we used to before they shut it all down. I look forward to getting back to that. I





H. Minor Pipes III at the 2015 and 2016 Tennis tournament during the LSBA Annual Meeting and Joint Summer School in Destin, Fla.

Photo by Matthew Hinton Photography.

really like seeing people and spending time with other people.

**Martin:** So, the burning question is, are you a Penn State football fan or an LSU football fan?

**Pipes:** I think it's probably fair to say, because I've been gone for 30 years, that I am more of an LSU fan because I go to their games all the time. I like watching Penn State when they're on, but I was only there for a couple of years. Frankly, I worked so much when I was there, I rarely got to go to games. But we're season-ticket holders for LSU, so we go to most of the games.

**Martin:** With the stress of the last year and changes with the way everyone has been practicing law because of the pandemic, any new ways to unwind that you developed over the past year?

**Pipes:** New ways to unwind? I would say a perfect unwinding evening for me, which is different than it used to be, would be opening a nice bottle

of wine, ordering in something to eat or cooking something, and then sitting back and watching whatever we happen to be binging on television for that month. But really, the quiet, do nothing. But, you know, anyone who knows me would say I'm not a low-energy person. I've always got a million things going on. Half the time while I'm sitting there watching television, I'm reading the paper while I'm doing it. But I think I've gotten better at just taking a deep breath and relaxing a little.

**Martin:** Probably better for your overall wellbeing, too.

**Pipes:** Probably! Or, it may just be that I'm getting old.

**Martin:** Anything that we didn't cover that you want to mention?

**Pipes:** Just that I am very proud and honored to be in this position. I think that we're all called to service and I look at this as a chance to serve more people. It's something that I'm excited about.

Yes, it's a little daunting and there's a lot to be done. But I think it will be a great experience.

**Martin:** I know your theme for the Summer School and Annual Meeting is "A New Frontier, Ideas Abound." Good luck with those new frontiers.

**Pipes:** I appreciate it. It's different. Everybody started in March of last year, then everything changed. We'll see what it means.

*C.A. (Hap) Martin III, a member in the Monroe law firm of Shotwell, Brown & Sperry, APLC, was sworn in as the 2021-23 Louisiana State Bar Association secretary and Louisiana Bar Journal editor in June. He served as the Seventh District representative on the LSBA's Board of Governors from 2015-18 and currently serves on the Judges and Lawyers Assistance Program Board. (camiii@centurytel.net; 1101 Royal Ave., Monroe, LA 71201)*



# EVERY MINUTE MATTERS:

## How Good Meeting Minutes Protect Companies and Their Directors from Bad Outcomes

By Kenneth J. Najder





A prominent Delaware judge once said, “Writing good minutes is like flossing; nobody likes to do it, but it is essential . . . .”

Simply put, well-drafted meeting minutes can help executives and boards minimize a number of risks and help document key business decisions. Incomplete or inaccurate minutes can be a source of confusion and, worse, legal jeopardy.

While the benefits of preparing minutes seem clear, related topics can be more challenging. This article reviews a number of common questions about minutes.<sup>1</sup> Although the risks posed by minutes vary significantly among different types of companies, the responses below are designed to be useful for any business entity that has multiple owners and is governed by fiduciaries.<sup>2</sup>

### **Are board minutes really necessary?**

Most definitely. To begin with, the corporate laws of most states, including Louisiana, require records of corporate proceedings.<sup>3</sup> Such records can help confirm the corporation’s separate existence for liability-shielding purposes.

Minutes, when coupled with other steps discussed below, also enable a company and its directors to speak with a “single voice” regarding matters that the directors approved or discussed. A coherent record of such decisions can be especially valuable if the company’s actions are challenged.

Minutes also help document the exercise of the directors’ fiduciary duties. Well-prepared minutes have, in certain situations — such as the *Caremark*, *Rojas* and *Dollar Thrifty* cases — proven instrumental in defeating shareholder challenges.<sup>4</sup> Conversely, minutes that document inadequate decision-making processes can be used as a weapon by litigants, as in the *Van Gorkom*, *Disney* and *Marchand* cases.<sup>5</sup>

Finally, some suggest that well-governed companies that furnish quality governance documents in the context of negotiated transactions are more likely to attract capital on favorable terms or extract above-average acquisition premiums.

### **Should minutes be extensive and detailed or short and high-level?**

In light of current litigation practices, significant matters discussed at a directors

meeting should generally be summarized with a moderate amount of detail, known colloquially as the “Goldilocks” approach. Minutes that are too detailed or too sparse can be problematic. Too much detail in documenting board deliberations can tie the hands of a litigator charged with defending the board’s actions. Too little information can weaken a litigator’s ability to demonstrate that the directors discussed a particular matter or discharged their fiduciary duties. Judges have, in certain cases, inferred that no deliberations occurred when minutes contained insufficient detail or silence regarding particular matters.

The Goldilocks approach helps litigators point to a strong, but not preclusive, record of a comprehensive deliberative process, and helps directors reconstruct their recollections prior to depositions without hampering their ability to amplify the breadth of the board’s deliberations.

### **Are there circumstances in which long-form or short-form minutes are preferred?**

Yes. A detailed, long-form approach is typically necessary to document a thorough review of (1) mergers or other actions governed by a higher level of scrutiny than the traditional “business judgment rule”<sup>6</sup> or (2) other transactions that could invite litigation or other third-party scrutiny, such as dividend cuts or internal investigations. These types of corporate events often lead class-action litigants to make “books and records” requests before filing suit. When comprehensive minutes document thorough board deliberations, class-action litigants frequently decide that their case is too weak to pursue.

Long-form minutes can be helpful in other situations as well. Long-form minutes are often employed to fully document directors’ approval of complex compensation arrangements; such minutes help support subsequent disclosures of the decision-making processes to other constituents. Companies also often record, in detail, advice provided to directors by experts, which can help shield directors from liability.

On the other hand, a short-form drafting approach can be sufficient when documenting the discussion or approval of simple, noncontroversial matters clearly

within the purview of the business judgment rule or when routine management reports are provided. For example, brief summaries may be used to document recurring CFO reports so that descriptions of financial reports in the minutes do not inadvertently conflict with the company’s public statements. Finally, sensitive matters, such as personnel issues and strategy discussions, may be covered in less detail to protect confidential data.

### **Is a hybrid approach ever acceptable?**

Yes, particularly when matters discussed at a single meeting dictate varying levels of detail. Judgment, however, should be applied to ensure that the length of each item in the minutes generally corresponds to its relative significance. Recently, a court expressed skepticism that a board had exercised sufficient attention to a business combination transaction when the minutes included significantly more details about their discussion of an unrelated routine tax issue.

### **What does the Goldilocks approach look like in practice?**

Discussions of important matters should be memorialized by referring to non-exhaustive lists of factors considered or questions raised. For instance, rather than attempting to capture every point raised or ignoring all of them, sentences similar to the following may be appropriate:

► “The board evaluated a wide range of considerations, including X, Y and Z.”

► “The directors asked a series of questions covering a range of factors, including questions relating to X, Y and Z.”

This technique enables companies to summarize extended brainstorming discussions efficiently yet comprehensively. Except in unusual circumstances (discussed further below), specific views need not be attributed to specific directors during these types of wide-ranging discussions. Instead, they can be summarized using sentences such as:

► “An extensive and lengthy discussion ensued, during which the directors shared their perspectives regarding X, Y and Z.”

► “The directors and officers engaged in a lengthy discussion of the matter and reviewed in detail a wide range of issues, including X, Y and Z.”

When summarizing an oral presentation that was accompanied by written presentation materials, it is important to refer to those accompanying materials. Avoid excessive detail, however. The following statement in the minutes can provide an optimal balance:

▶ “Using his previously distributed presentation materials as a guide, Officer ABC reviewed XYZ.”

Keep in mind that considerably more detail will be warranted in summarizing the discussion of high-risk matters, as noted above.

### **Should minutes always use formal resolutions to document affirmative board authorizations?**

No, particularly when authorizing minor or uncontroversial matters (such as approving a search to hire an additional sales agent when business is rapidly expanding) or discrete, well-defined matters that are easy for the directors to understand (such as authorizing management to continue pursuit of a corporate project on the terms discussed at the meeting). Directors’ approval of a management proposal that was clearly and unambiguously defined in separate meeting materials circulated prior to the meeting can also be simply recorded in the body of the minutes.

If directors comment favorably upon management’s proposed course of action, but the matter is not brought to a vote, the minutes can simply reflect that the “directors indicated their support” for such course of action, or something similar.

Formal resolutions generally are necessary to document:

▶ Complex matters, such as acquisitions or executive compensation.

▶ Actions where board authorization is required under applicable statutory law or the company’s organizational documents, such as share issuances or charter amendments.

▶ Actions subject to review by third parties, including regulators.

▶ Authorizations of matters exceeding management’s previously granted authority or new delegations of authority.

▶ Other cases where it is necessary or appropriate to ensure that the directors have acted in unison.

To help build a record of a strong delib-

erative process, draft resolutions should be sent to the directors prior to the meeting.

### **How do we handle note-taking by directors?**

Generally, directors’ notes are problematic. If divulged in discovery, such notes complicate the ability of minutes to act as the sole record of a board’s deliberations and may permit plaintiffs to “shop” for a preferred narrative. Directors’ notes can be misinterpreted, create adversity between directors, highlight preliminary questions or concerns (but not their ultimate resolution), or create evidence of distraction. Once created, notes are difficult to discard and cannot be destroyed or modified once litigation and attendant “litigation hold” orders ensue.

Notwithstanding these risks, many directors insist on taking notes, believing that they cannot adequately discharge their oversight duties without recording observations and questions for future use. In response, many companies have adopted policies that govern director handwritten, digital and electronic-portal note-taking.

Such policies may require:

▶ Automatic deletion of all portal notes upon completion of meetings.

▶ Destruction of all sensitive paper handouts upon completion of meetings (subject to the corporate secretary’s retaining an archived copy).

▶ Destruction of written notes as soon as possible but no later than the date draft minutes are furnished or approved.

In preparing policies on director note-taking, companies need to assess many trade-offs between tight policies (favored by the company’s litigators) and looser policies (often favored by one or more company directors). Regardless of how these policies are drafted, they should be applied consistently and monitored periodically to assess their continued effectiveness.

### **Should we record board meetings held over Zoom and other digital platforms?**

Almost never. If a company believes recordings are necessary, the recording (and any other digital records generated by the service provider) should be destroyed once the meeting minutes are prepared or approved.

### **What about the recording secretary’s notes and draft minutes?**

If the recording secretary is an attorney, the company may be able to assert that these materials are privileged and non-discoverable. In certain cases, however, a court may not recognize this privilege and will permit discovery. The recording secretary’s extensive (or incomplete) notes or preliminary drafts could endanger the ability of the company’s litigators to defend the board’s actions. With this in mind, companies should consider the benefits of adopting a written policy requiring recording secretaries to use handwritten notes and authorizing the prompt destruction of the recording secretary’s notes and preliminary drafts.<sup>7</sup>

### **How quickly should draft minutes be prepared and distributed?**

If any matter discussed at a meeting raises substantial near-term litigation risk, companies should prepare and approve draft minutes as soon as possible so that notes and drafts can be destroyed promptly. This will help the company speak with a single voice about the matters approved or discussed at its meetings, without the potential complications raised by conflicting narratives. In addition, at least one court has expressed skepticism over the veracity of minutes prepared well after the meeting but during pending litigation.

Even when routine matters are discussed, prompt preparation of minutes avoids the problems of recall by the recording secretary and the meeting participants. Plus, directors generally appreciate — and often expect — the prompt distribution of minutes.

### **Should executive sessions be recorded?**

Directors often discuss sensitive matters in executive sessions but defer taking formal action until they reconvene in regular session. For these reasons, a bare-bones summary of matters discussed in executive session is recommended, as long as the summary includes enough information to (1) prove that a matter requiring the exercise of the directors’ business judgment was adequately reviewed; (2) enable directors to reconstruct their memories if deposed; and (3) record definitive actions taken, if any.<sup>8</sup>

Continued on page 20



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## How should we summarize the conveyance of privileged communications at a board meeting?

With care. If protection of privileged information is the paramount goal, the privilege can be preserved by drafting a short-form summary of the topic discussed or using separate, “privileged” minutes for that portion of the meeting. However, if documenting the directors’ adherence to privileged third-party oral advice is prioritized, the directors might prefer including in the minutes an outline of the privileged advice received, even if this risks destroying the privilege.

## Should minutes record director and guest entrances into and exits from a meeting?

Yes. This practice will enable the company to create a record of potential witnesses to testify on specific deliberations and negate any unintended implication that a guest invited to limited portions of the meeting attended other portions, particularly where the guest’s participation would have been inappropriate.

There is generally no need to record a director’s tardy entrance into or early exit from a meeting unless the director misses a vote or a material portion of an important discussion.

## Should negative votes or abstentions by a director be recorded?

Yes, with a particular emphasis on documenting the existence of any conflicts of interest that led to abstentions.<sup>9</sup> Failure to do so not only would create a potentially misleading record, but would also enable litigants aware of the deficiency to subsequently attack the company’s credibility and integrity.

## Can director discussions at prior meetings or between meetings be referenced in minutes?

Brief references to such conversations in minutes (or accompanying resolutions) can bolster documentation of a strong deliberative process.

## Should minutes specifically identify which director provided input or raised questions?

Such detail is generally not necessary or appropriate, except when documenting:



▶ The role of the chair in running the meeting and framing the discussions.

▶ Dissenting votes or views.

▶ Input that had a fundamental impact on a material decision-making process.

▶ Input from a director who has specialized expertise pertaining to the applicable matter or specifically requests attribution for certain comments.

## Do quality minutes prevent or solve every problem?

Not necessarily. Minutes are typically the final step in a process designed to document the board’s careful deliberations in connection with each of its meetings. Preceding steps include:

▶ Soliciting director input on agenda items.

▶ Providing detailed agendas that clearly outline the scope of action required and permit directors to adequately prepare for the meeting.

▶ Distributing, prior to the meeting, presentation materials regarding topics to be discussed at the meeting.

Materials generated in these steps may also be subject to discovery. Presentation materials in particular should be scrutinized carefully, identified in meeting minutes, and work in tandem with the minutes to create a single cohesive record of matters discussed. Some courts have drawn the inference that presentation materials not specifically referenced in an agenda or minutes were not utilized by the directors, notwithstanding management’s claims to the contrary.

## Conclusion

Like flossing, minutes matter — more than one might expect. Legal counsel can help craft minutes that contain coherent

corporate narratives while minimizing potential risks.

## FOOTNOTES

1. The answers to questions included herein are generalized replies of the author only. Specific questions involving different facts and circumstances may result in different answers.

2. Although most of the discussion herein is directed to board minutes for business corporations, references to “directors” herein will generally apply with equal force to managers or general partners who owe fiduciary duties to their respective entities and those entities’ owners. Much of the discussion will also apply to trustees or other fiduciaries of various other types of business or charitable organizations.

3. See La. R.S. 12:1-1601. The Securities Exchange Act of 1934, as amended, and other federal laws also require certain recordkeeping.

4. In re Caremark Int’l, Inc. Derivative Litigation (Del. Ch. 1996); In re Dollar Thrifty Shareholder Litigation (Del. Ch. 2010); and Rojas v. Ellison (Del. Ch. 2019). Although these are all Delaware cases, it is reasonable to assume that Louisiana courts would rule in similar fashion if presented with similar facts. Louisiana courts have traditionally looked to Delaware law for guidance when considering issues arising under Louisiana’s corporate laws. Armand v. McCall, 570 So.2d 158, 160 (La. Ct. App. 1990).

5. Smith v. Van Gorkum (Del. 1985); Walt Disney Co. Derivative Litigation (Del. Ch. 2003); and Marchand v. Barnhill (Del. 2019). For the purpose of this article, it is generally assumed that plaintiff attorneys will be able to obtain a company’s minutes in discovery.

6. This would include actions governed by an intermediate or enhanced level of scrutiny or the entire fairness doctrine.

7. These policies could be part of the company’s policy governing directors’ notes, a separate complementary policy, or part of the company’s general document retention policy.

8. If the recording secretary does not attend the executive session, arrangements should be made to ensure the production of an accurate summary.

9. The amount of information recorded in the minutes will depend on several factors, including the applicability of state corporate laws governing conflict of interest transactions and the input of directors on the appropriate level of detail under the circumstances.

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# 27<sup>TH</sup> ANNUAL LOUISIANA STATE BAR ASSOCIATION ADMIRALTY SYMPOSIUM

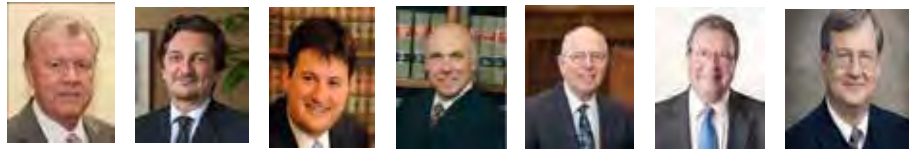
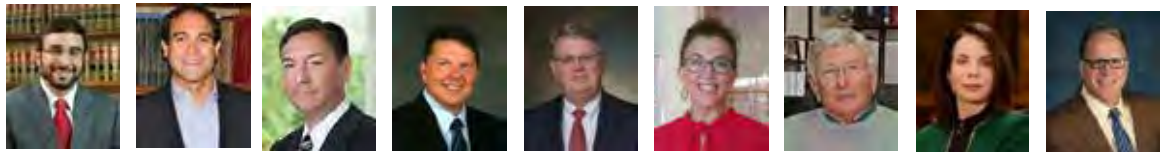
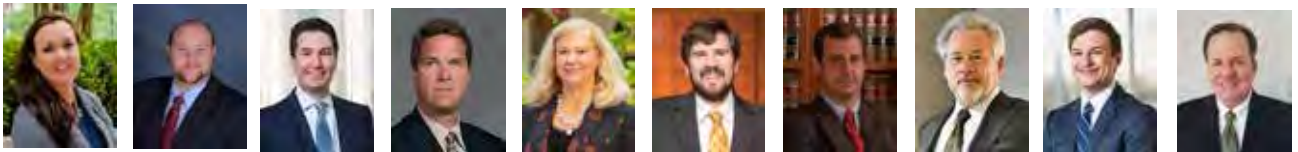
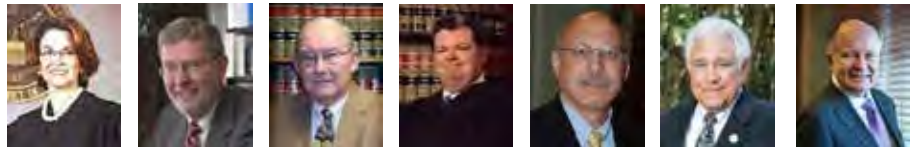
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## Officers 2021-22

### H. Minor Pipes III President

H. Minor Pipes III is a founding member of the New Orleans firm of Pipes Miles Beckman, LLC. He received a BA degree in 1991 from Penn State University and his JD degree in 1996 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1996.

Minor served as Louisiana State Bar Association (LSBA) president-elect from 2020-21 and as treasurer from 2016-18. He represented the First District on the Board of Governors and has served in the House of Delegates. He has co-chaired the LSBA's Summer School for Lawyers. He was a member of the Leadership LSBA Class in 2002 and received the LSBA's President's Award in 2009. He served as 2015-16 president of the Louisiana Bar Foundation.

In his community, he volunteers his time with the Hogs for the Cause program, Kid Smart and Trinity Episcopal School.

Minor and his wife, Jill McKay Pipes, have been married for 22 years and are the parents of three children.

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### Stephen I. Dwyer President-Elect

Stephen I. Dwyer is a founding member and managing partner of Dwyer, Cambre & Suffern, APLC, in Metairie. He received a BA degree in 1970 from Holy Cross College in Worcester, Mass.; an MA degree, with distinction, in 1972 from the University of New Orleans; and his JD degree, *magna cum laude*, in 1976 from Loyola University College of Law (editor-in-chief, *Loyola Law Review*).

Stephen served as the Second District representative on the Louisiana State Bar Association's (LSBA) Board of Governors from 2011-14 and from 2017-20. He is a member of the *Louisiana Bar Journal's* Editorial Board. He is a member of the Committee on the Profession, the Bar Governance Committee and the Audit Committee. He served as an adjunct faculty member for Loyola University College of Law and as a lecturer for various CLE programs.

He has been recognized by *New Orleans City Business* "Leadership in Law," "Who's Who Among American Lawyers," *Best Lawyers in America*, "Top Attorneys in



H. Minor Pipes III



Stephen I. Dwyer



C.A. (Hap)  
Martin III

Louisiana" and *Louisiana Super Lawyers*. He is a member of Alpha Sigma Nu Honor Society.

Stephen chaired the award-winning St. Tammany Recreation District #14 (Coquille Parks and Recreation) and led the financing and development of the 150-acre sports, recreation and park complex in western St. Tammany Parish. He chairs the Miracle League Northshore for special needs children, serves as president of the Jefferson Performing Arts Society, is a member of the Loyola University College of Law Visiting Committee, and serves on the Holy Cross College President's Council and on the boards of directors of the Holy Cross Lawyers' Association and the Holy Cross Alumni Association. He has served as president of the Loyola Law School Alumni Association and on the Loyola Alumni Association's Board of Directors.

He is married to Jennifer Van Vrancken, an attorney and Jefferson Parish Councilwoman, and is the father of five children. He has four grandchildren.

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### C.A. (Hap) Martin III Secretary

C.A. (Hap) Martin III is a member in the Monroe firm of Shotwell, Brown & Sperry, APLC. He received a BS degree in civil engineering in 1977 from Louisiana Tech University and his JD degree in 1980 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1980.

Hap served as the Seventh District representative on the Louisiana State Bar Association's (LSBA) Board of Governors from 2015-18. He currently serves on the Judges and Lawyers Assistance Program Board, the *Louisiana Bar Journal's* Editorial Board, the LSBA's Bar Governance Committee, the Mandatory CLE Committee and on the Governing Council of the Insurance, Tort, Workers' Compensation and Admiralty Law Section. He is a former member of the LSBA's House of Delegates. He is a master emeritus of the Judge Fred Fudickar, Jr. American Inn of Court.

In his community, he is a member of St. Paul's United Methodist Church and has held several leadership positions in his denomination on the local, district and conference levels. He has served as legal counsel volunteer with the Louisiana Purchase Council of the Boy Scouts of America (and its predecessor) and has coached several youth sports organizations.

Hap and his wife, Diane Caraway Martin, have been



married for more than 40 years and are the parents of two children.

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**John E. McAuliffe, Jr.  
Treasurer**

John E. McAuliffe, Jr. is an attorney in the Metairie office of Frederick A. Miller & Associates. He received a BS degree in accounting in 1975 from the University of New Orleans and his JD degree in 1978 from Loyola University Law School. He was admitted to practice in Louisiana in 1978.

Eddie served as the Louisiana State Bar Association's secretary and *Louisiana Bar Journal* editor from 2017-19. He was the Second District representative on the Board of Governors from 2014-17. He chairs the LSBA's Unauthorized Practice of Law Committee, has presented programs on state court rules and motions for the Bridging the Gap CLE seminar and participated in the Law School Professionalism Orientations at Loyola University College of Law. He received the LSBA's President's Award in 2012 and 2019 and the LSBA's Pro Bono Publico Award in 2003.

He is a member of the Louisiana Association of Defense Counsel, the New Orleans Association of Defense Counsel (president, 1998-99) and the New Orleans Bar Association.

Eddie and his wife Jean have been married for 38 years and are the parents of two children.

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**Alainna R. Mire  
Immediate Past President**

Alainna R. Mire is the chief resilience officer and an assistant attorney for the City of Alexandria and a former human resources director. She received a BA degree in political science in 2000 from Louisiana State University and her JD/BCL degree in 2004 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2004.

Alainna served as Louisiana State Bar Association (LSBA) president in 2020-21, president-elect in 2019-20, and secretary and *Louisiana Bar Journal* editor in 2015-17. She served as the LSBA Young Lawyers Division chair, chair-elect, secretary and District 6 representative. She served on the LSBA's Board of Governors as House of Delegates Liaison Committee chair. She has served on several LSBA committees, including the Executive Committee, the Budget Committee, the Bar Governance Committee, the Legislation Committee, the Community



John E.  
McAuliffe, Jr.



Alainna R. Mire



Lawrence J. (Larry)  
Centola III



Scott L. Sternberg

Action Committee and the Public Information Committee. She is also a member of the Access to Justice Commission.

She served on the Louisiana Bar Foundation's (LBF) Board and its Budget Committee and co-chaired the LBF's Membership Committee.

A former officer of the Central Louisiana Pro Bono Project and chair of the Alexandria Bar Association's Young Lawyers Council, she is a member of the Alexandria Bar Association and the American Bar Association. She is a former chair of the United Way of Central Louisiana.

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**Board of Governors 2021-22**

**Lawrence J. (Larry) Centola III  
First Board District**

Lawrence J. (Larry) Centola III is a principal member of the New Orleans firm of Martzell, Bickford & Centola. He received a BA degree in political science in 1998 from Louisiana State University and his JD degree in 2001 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2001.

Larry serves on the Louisiana State Bar Association's (LSBA) Client Assistance Fund Committee. He served as LSBA Young Lawyers Division chair in 2012-13.

He serves on the board of directors of the Federal Bar Association New Orleans Chapter and on the Board of Governors for the Louisiana Association for Justice. He serves as the torts bar examiner for the Louisiana Bar exam.

In a ceremony at the United States Supreme Court, he was presented with the 2008 Sandra Day O'Connor Award for Professional Service from the American Inns of Court. The national award is presented to an attorney who has been practicing for fewer than 10 years.

He and his wife Amy are the parents of three girls.  
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**Scott L. Sternberg  
First Board District**

Scott L. Sternberg is the managing partner of Sternberg, Naccari & White, LLC, with offices in New Orleans and Baton Rouge, where he focuses on business, general litigation and media matters. His media focus has involved litigation for newspapers, including *The Advocate*, and legal and legislative work for the Louisiana Press Association. He received a BA degree in journalism from Louisiana State University and his law degree from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2010.

Scott has served as chair, chair-elect, secretary and

District 1 representative on the Louisiana State Bar Association (LSBA) Young Lawyers Division (YLD) Council. As part of the YLD's strategic planning, he chaired the first Louisiana Young Lawyers Conference in 2019. In 2019, he received an LSBA Citizen Lawyer Award for his pro bono, professional and charitable activities. He has twice received the LSBA's Stephen T. Victory Memorial Award for most outstanding *Louisiana Bar Journal* article. He served on numerous LSBA committees and was a member of the 2012-13 Leadership LSBA Class.

He has taught at LSU and Loyola. He serves on the boards of the Federal Bar Association New Orleans Chapter, the American Red Cross for Southeast Louisiana, the Pro Bono Project and the Louisiana Center for Law and Civic Education. He has been recognized as one of *Gambit Weekly's* "40 Under 40," as a *Louisiana Super Lawyer* "Rising Star" and on *New Orleans Magazine's* "Top Lawyers" list. In 2020, he was named a "Leader in Law" by *New Orleans CityBusiness*.

Scott and his wife Breland are the parents of four children.  
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**Erin O. Braud**  
**Second Board District**

Erin O. Braud is staff counsel for The Hartford Insurance Co. (Law Offices of Julie E. Vaicius) in Metairie. She received a BA degree in mass communications in 2002 from Louisiana State University and her JD degree in 2005 from Loyola University College of Law. She was admitted to practice in Louisiana in 2005.

Erin has served as chair, chair-elect, secretary and District 2 representative on the Louisiana State Bar Association's Young Lawyers Division Council. She has participated in several Law Day and Constitution Day presentations.

In her community, she serves as a board commissioner of the Plaquemines Medical Center.

Erin and her husband, S. Jacob Braud, are the parents of three children.

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**Dwazendra J. Smith**  
**Third Board District**

Dwazendra J. Smith is a partner in the Opelousas office of Doran & Cawthorne, PLLC. She received a BA degree in political science in 2006 from Louisiana State University-Shreveport and her JD degree in 2009 from Southern University Law Center. She was admitted to practice in Louisiana in 2009 and in Texas in 2015.

Dwazendra is currently an adjunct professor teaching



Erin O. Braud



Dwazendra J. Smith



Todd S. Clemons

criminal law at the University of Louisiana-Lafayette and teaching professional responsibility at Mitchell Hamline School of Law.

She served in the Louisiana State Bar Association's (LSBA) House of Delegates from 2014-20. She was a member of the 2013-14 Leadership LSBA Class and served on the LSBA Continuing Legal Education Program Committee and the Access to Justice Subcommittee on Pro Bono Award Nominations.

Dwazendra is a member of the Lafayette Parish Bar Association (since 2009), the American Bar Association (since 2009) and the Lafayette Volunteer Lawyers (LVL) Committee (since 2013). She served as president of the Lafayette Young Lawyers Association in 2015-16. She was a member of the Louisiana Bar Foundation's Acadiana Community Partnership Panel in 2015-16.

She received the LSBA's Pro Bono Publico Award in 2012 and 2015; the LSBA's Pro Bono Century Award in 2011, 2013, 2014 and 2015; the Lafayette Bar Association's Outstanding Attorney Award every year from 2010-2019; and the Lafayette Bar Association's Top LVL Award in 2014 and 2015.

Dwazendra is the mother of one child.  
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**Todd S. Clemons**  
**Fourth Board District**

Todd S. Clemons is the founder of Todd Clemons & Associates in Lake Charles. His primary areas of practice are criminal defense, post-conviction relief and general civil litigation. He received his undergraduate degree from the University of Louisiana-Lafayette and his JD degree, *magna cum laude*, from Southern University Law Center. He was admitted to practice in Louisiana in 1987.

Todd is a former assistant district attorney in Calcasieu Parish and a former federal prosecutor in the U.S. District Court, Western District of Louisiana. He also served as judge *pro tempore* in 14th Judicial District Court.

He currently serves on the Louisiana Supreme Court Committee on Bar Admissions as a bar examiner. He writes the criminal law, procedure and evidence portion of the exam. He also is a member of the Judicial Council of the Louisiana Supreme Court.

In his community, he is a member of the Sowela Foundation which raises funds for Sowela Community College in Lake Charles. He also served as president of the board of directors of Big Brothers/Big Sisters of Southwest Louisiana. He is a life member of Omega Psi Phi Fraternity, Inc., serving as the four-state Ninth District representative. He is a member of Christian Baptist Church, serving as a moderator and on the board of directors.



Todd and his wife, Stefanie O. Clemons, have been married for 33 years and are the parents of two children.  
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**Kelly M. Rabalais**  
**Fifth Board District**

Kelly M. Rabalais is assistant vice president of strategic planning and implementation for St. Tammany Health System. She received a BA degree in political science in 1996 from Louisiana State University and her JD degree in 1999 from LSU Paul M. Hebert Law Center.

Kelly was elected to the Louisiana State Bar Association's Nominating Committee in 2018, 2019, 2020 and 2021 and is a member of the Committee on the Profession and the *Louisiana Bar Journal* Editorial Board.

She is a member of the Federal Bar Association New Orleans Chapter's board of directors. She is serving a 2018-21 term on the Lawyer Disciplinary Committee of the U.S. District Court, Eastern District of Louisiana. She served as 2017 and 2018 Women in Law chair and 2019 Community Outreach chair for the 22nd Judicial District Bar Association. She received the 2016 BGR (Bureau of Governmental Research) Excellence in Government Merit Award.

In her community, she is a member of the Safe Haven Foundation.

Kelly and her husband, J. Michael Rabalais, Jr., have been married for 25 years and are the parents of two children.  
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**Adrian G. Nadeau**  
**Fifth Board District**

Adrian G. Nadeau is an equity partner and member of the Management Committee for Long Law Firm, LLP, in Baton Rouge. He received a BA degree in political science and history in 1990 from Louisiana State University and his JD/BCL degree in 2002 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2003.

Adrian served in the Louisiana State Bar Association's (LSBA) House of Delegates and was a member of the 2008-09 Leadership LSBA Class and co-chair of the 2009-10 Leadership LSBA Class.

He is a member of the Baton Rouge Bar Association and a former chair of its Construction Law Section. He also is a member of the American Bar Association's Forum on the Construction Industry.

In his community, he is a member of the board of advisors for Heritage Ranch, a nonprofit Christian children's home in the Baton Rouge area for youth experiencing personal crises. He also is a Eucharistic minister



Kelly M. Rabalais



Adrian G. Nadeau



Charles D. Elliott



W. Michael Street

at St. Jude the Apostle Catholic Church in Baton Rouge.

Adrian and his wife, Carol Ann Nadeau, are the parents of four children.

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**Charles D. Elliott**  
**Sixth Board District**

Charles D. Elliott is a solo practitioner at Charles Elliott & Associates, LLC. He received a BS degree in science/math education in 1986 from Louisiana Tech University, an MS degree in computer science in 1989 from Louisiana State University and his JD degree in 1993 from LSU Paul M. Hebert Law Center (graduating Order of the Coif and a member of the *Louisiana Law Review*). He was admitted to practice in Louisiana in 1993.

Charles is a former member of the Louisiana State Bar Association's (LSBA) House of Delegates, a prior member of the Board of Governors and a member of the Legal Malpractice Insurance Committee and the Medical/Legal Interprofessional Committee.

He is a member of the Alexandria Bar Association, the Alexandria Crossroads Inn of Court and the Louisiana Association for Justice. He was president of the Central Louisiana Pro Bono Project for several years.

In his community, he serves on the Salvation Army's board and will be president of the Pineville Rotary Club in 2021-22. He is recently married to his wife Kathleen. He is the father of one child.

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**W. Michael Street**  
**Seventh Board District**

W. Michael Street is a partner in the Monroe firm of Watson, McMillin & Street, LLP, and a member of Marathon Title Co., LLC. He received a BA degree in philosophy and a BA degree in political science, *cum laude*, in 1991 from Centenary College and his JD degree in 1996 from Louisiana State University Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 1996.

Michael served in the Louisiana State Bar Association's (LSBA) House of Delegates from 2014-21 and is a current member of the Mandatory Continuing Legal Education Committee. He served on the LSBA's Young Lawyers Division Council from 2002-06, chairing the State Mock Trial Committee from 2004-06. He received the Bat P. Sullivan, Jr. Chair's Award in 2006.

A current Fellow of the Louisiana Bar Foundation (LBF), he served as LBF president in 2018-19; vice president, 2017-18; treasurer, 2016-17; secretary, 2015-16; board member, 2013-15; and chair of the Northeast Louisiana Community Partnership Panel, 2010-13.

Michael is president of the Lagniappe Law Lab and secretary/treasurer of the Judge Fred Fudickar, Jr. American Inn of Court. He is a former president of both the Fourth Judicial District Bar Association and its Young Lawyers Section. He received the Outstanding Young Lawyer Award in 2000. He also is a member of the American Bar Association and the Bar Association of the Fifth Federal Circuit.

In his community, he was a board member of the Northeast Louisiana Arts Council from 2004-10. He also was pioneer district chair and Troop 231 committee chair for the Boy Scouts of America Louisiana Purchase Council.

Michael and his wife Jennifer have been married for 28 years and are the parents of three children.

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### **Curtis R. Joseph, Jr.** **Eighth Board District**

Curtis R. Joseph, Jr. is a partner in the Shreveport firm of Winchell & Joseph, LLC. He handles defense and plaintiff-oriented litigation. He attended Washington & Lee University in Lexington, Va., earning his BA degree in mass communications in 1993 and his JD degree in 1996.

While at Washington & Lee, he performed clinical work, focusing on post-conviction relief, for the inmates of the Federal Women's Prison Camp in Alderson, W.Va. He taught language arts, social studies and religion at Bishop Perry Middle School in New Orleans.

Curtis has served in the Louisiana State Bar Association's House of Delegates.

He is vice chair of the Metropolitan Planning Commission and serves on the boards of the Louisiana State Licensing Board for Contractors, the Biomedical Research Foundation, the Committee of One Hundred and the Rotary Club of Shreveport. He is a recipient of the Dr. Jesse N. Stone Pioneer Award.

He is a founding member of Washington & Lee's chapter of Alpha Phi Alpha Fraternity, Inc. He is a former president of the Shreveport Bar Association and the North Louisiana Jewish Federation and the immediate past chair of the Strategic Action Council and North Louisiana Holocaust Remembrance Service.

In his community, Curtis is a local jazz/blues drummer. He and his wife Barbara have been married for 18 years and are the parents of two children.

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### **Graham H. Ryan** **Chair, Young Lawyers Division**

Graham H. Ryan is a partner in the New Orleans office of Jones Walker LLP, where he litigates complex business



Curtis R. Joseph, Jr.



Graham H. Ryan



Tina L. Suggs

disputes in federal and state courts. He graduated, *summa cum laude*, in finance from Louisiana State University, received his law degree from LSU Paul M. Hebert Law Center (*Louisiana Law Review*) and is an alumnus of the Harvard Negotiation Institute's dispute resolution program.

Graham has served on the Louisiana State Bar Association (LSBA) Young Lawyers Division (YLD) Council as 2020-21 chair-elect, 2019-20 secretary and as the delegate to the American Bar Association (ABA) House of Delegates. He currently serves on the LSBA's Legislation Committee and Access to Justice Committee. He was a member of the 2014-15 Leadership LSBA Class. He received the LSBA YLD Chair's Award in 2016 and 2018 and was named as a 2017 Louisiana Bar Foundation Fellow for his role in leading various access to justice initiatives. He has served as a council member for the Louisiana State Law Institute, the ABA YLD, the New Orleans Association of Defense Counsel and the Jefferson Bar Association YLD.

He was named to the 2020 Leadership in Law Class by *New Orleans CityBusiness* and to the 2018 "40 Under 40" Class by *Gambit Weekly*. He was honored as a "Top 40 Young Lawyer" nationally by the ABA in 2018.

In his community, Graham is a board member of Lakeview Civic and a commissioner of the Lakeview Crime Prevention District. He is a former chair of HandsOn New Orleans, a nonprofit volunteer center founded after Hurricane Katrina that engaged more than 60,000 volunteers to rebuild south Louisiana. He also is an attorney volunteer and board member of the Pro Bono Project and several other community organizations.

Graham and his wife Erin are the parents of two sons.

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### **Tina L. Suggs** **At-Large Member**

Tina L. Suggs is in-house counsel for State Farm Insurance Co. in Metairie. She received a BS degree in medical technology in 1991 from the University of New Orleans and Louisiana State University School of Allied Health and her JD degree in 2004 from Loyola University College of Law. She was admitted to practice in Louisiana in 2005.

Tina served on the Louisiana State Bar Association's (LSBA) House of Delegates, representing the 24th Judicial District. She also is a member of the Committee on the Profession and the Legislation Committee. She is the co-chair of the LSBA Access to Justice Committee and a committee member of the Louisiana Bar Foundation's Capital Area Community Partnership Panel.

She is a member of the New Orleans Association of Defense Counsel, the Jefferson Bar Association and State Farm's National Diversity and Inclusion Committee and Engagement Committee. She is the recipient of the



Influential Pacesetter Award from the City of Jeanerette and the Living Legend Award from First Church of God in Christ.

In her community, she is a member of Delta Sigma Theta Sorority, involved in local and international community projects. She also assists in the Project H.E.L.P. program, providing notarial services to the homeless.

Tina and her husband, Everett C. Suggs, have been married for 26 years and are the parents of two children.

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### **Adreja Boutté Swafford**

#### **At-Large Member**

Adreja Boutté Swafford works in the Legal Department of the State Office of Community Development. Previously, she worked for 14 years in insurance and general commercial defense, as a business consultant, and as a judicial clerk in the River Parishes.

Adreja received a BS degree in psychology in 1999 from Xavier University School of Louisiana and her JD degree in 2003 from Southern University Law Center. She also has a LLM degree in business law, with a certificate in compliance studies, from Loyola University of Chicago Law Center.

She has been a member of the *Louisiana Bar Journal's* Editorial Board for several years. She has served on the Louisiana State Bar Association's (LSBA) Committee on Diversity and co-chaired the Communications Subcommittee. She also served on the LSBA's Legal Services for Persons with Disabilities Committee.

Adreja and her husband, Richard Swafford, reside in Baton Rouge.

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### **Blake R. David**

#### **At-Large Member**

Blake R. David is a founding partner of the Lafayette firm of Broussard & David, LLC. He received a BA degree in political science and English literature in 1997 from Louisiana State University and his JD degree in 2001 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2001. Prior to litigating, he worked as a registered lobbyist with Haynie & Associates in Baton Rouge.

Blake represented the Third District on the Louisiana State Bar Association's (LSBA) Board of Governors from 2014-17 and served on the LSBA's Nominating Committee. He was the recipient of the LSBA Young Lawyers Division's Outstanding Young Lawyer Award in 2009.

He is board-certified by the National Board of Trial



**Adreja Boutté Swafford**



**Blake R. David**



**John M. Church**

Advocacy in civil trial advocacy. He also is an advocate in the American Board of Trial Advocates. Annually, he teaches trial advocacy at the LSU Law Center. In 2017, he was appointed to the Louisiana Board of Regents by Gov. John Bel Edwards and currently serves as chair of the board and a member of the Executive Committee.

Blake is president-elect, an Executive Committee member, a Board of Governors member and chair of the Maritime Section for the Louisiana Association for Justice. He is a former president and Foundation board member for the Lafayette Bar Association, a former president of the American Inn of Court of Acadiana and a member of the International Society of Barristers. He also is a founding board member and former president of the Lafayette-Acadiana Chapter of the Federal Bar Association. He is AV-rated by Martindale-Hubbell. From 2012-2019, he was recognized by *Louisiana Super Lawyers* and is included in the list of *Louisiana Super Lawyers* Top 50 Lawyers in Louisiana.

In his community, he is involved with several organizations, including the Lafayette Economic Development Authority, the Downtown Development Authority, Opus Christi Magnum Catholic Charities, ABC Art Fund and the Acadiana Tigers. He is a founding board member of "The 705," a young professionals' organization.

Blake and his wife Amber are the parents of three children.

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### **John M. Church**

#### **Faculty, Louisiana State University Paul M. Hebert Law Center**

John M. Church is a professor of law at Louisiana State University (LSU) Paul M. Hebert Law Center. He received a BS degree in 1983 from Central Michigan University, an MS degree in economics in 1985 from the University of Illinois and his JD degree in 1988 from the University of Colorado. He was admitted to practice in Colorado in 1988.

John has served as LSU's representative on the Louisiana State Bar Association's Board of Governors several times between 1998-2019. He is a member of the American Law and Economics Association, the American Association of Wine Economists and the American Intellectual Property Association.

In his community, he is a member of the Sacred Heart of Jesus Catholic Church. He and his wife Karen have been married for five years. He is the father of three children.

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Continued next page

**Ronald J. Scalise, Jr.**

**Faculty, Tulane University Law School**

Ronald J. Scalise, Jr. is the John Minor Wisdom Professor of Civil Law at Tulane University Law School. He joined the Tulane Law faculty in 2009 and held the A.D. Freeman Professorship from 2009-18. He served as vice dean of the law school from 2012-16. From 2004-09, he served on the faculty of Louisiana State University Paul M. Hebert Law Center; in 2007, he was awarded the McGlinchey Stafford Associate Professorship there and, in 2009, served as acting vice chancellor for academic affairs.

He received a BA degree in 1997 from Tulane University, his JD degree in 2000 from Tulane Law School (articles editor for the *Tulane Law Review*), and an LLM in 2003 from Cambridge University (Trinity College). He was admitted to practice in Louisiana in 2000.

Ronald served on the LSBA's Board of Governors from 2013-15 and from 2017-19. From 2011-17, he served on the Louisiana Board of Legal Specialization, including as board chair and vice chair.

He serves as reporter for the Trust Code Committee, the Prescription Committee and the Committee on Aleatory Contracts/Signification of Terms of the Louisiana State Law Institute. He is a member of the Law Institute's Council and a member of the Successions and Donations Committee and several other subject-matter-specific revision committees.

In 2011, he was appointed as an appeals judge in cases contesting decisions made by the BP oil spill compensation system. In 2012, he was elected as an associate member of the International Academy of Comparative Law. As a board member of the American Society of Comparative Law, he has written extensively on civil law topics and is the primary author for the annual updates for five volumes in the *Louisiana Civil Law Treatise* series on property and obligations. In 2014, he was elected as an academic fellow of the American College of Trusts and Estate Counsel. He received the *New Orleans City Business Leadership in Law Award* in 2015. In 2018, he received the Felix Frankfurter Award for law teaching and the John Minor Wisdom Award for best civil law article published in the *Tulane Law Review*. Also in that year, he assumed editorial responsibility for the annual pamphlet edition of the *Louisiana Civil Code*. In 2019, he was elected to membership in the American Law Institute.

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**Lila Tritico Hogan**

**Louisiana State Law Institute**

Lila Tritico Hogan is a partner in the Hammond firm of Hogan Attorneys. She received a BA degree in history, with honors, in 1972 from Louisiana State University and her JD degree in 1975 from LSU Law School. She



Ronald J. Scalise, Jr.



Lila Tritico Hogan



Ann S. Siddall

was admitted to practice in Louisiana in 1975. She is a board-certified family law specialist (by the Louisiana Board of Legal Specialization). She also is a qualified family law mediator.

Lila is a current Louisiana State Bar Association (LSBA) Transition Into Practice (TIP) Program mentor and has served in the LSBA's House of Delegates. She has chaired the Louisiana Attorney Disciplinary Board and served on several LSBA committees, including the Practice Assistance and Improvement Committee, the Rules of Professional Conduct Committee, the Ethics Advisory Service Committee and the Practice Aid Guide Subcommittee. She received the LSBA Citizen Lawyer Award in 2015, the LSBA President's Award in 2001 and the LSBA Young Lawyers Division's Outstanding Young Lawyer Award in 1986-87.

She is a member of the Louisiana State Law Institute Council and the Law Institute's Marriage-Persons Committee. She also is a member of the LSU Family Law Seminar Advisory Committee. She has been recognized by *Louisiana Super Lawyers* as a Top Family Lawyer for the past 15 years. She is the recipient of the 2013 Woman of Excellence Award from the Tangipahoa Parish Library and the 2015 Annie Award from the Hammond Area Chamber of Commerce.

In her community, Lila is a Governor's appointee to the Louisiana Domestic Violence Prevention Commission, a member of the Greater Hammond Chamber of Commerce and a member of PRIDE (SLU Lady Lions basketball support group.)

She and her husband, Thomas J. Hogan, Jr., have been married for 42 years and are the parents of four children.

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**Ann S. Siddall**

**Chair, House of Delegates Liaison Committee**

Ann S. Siddall is a sole practitioner in Vidalia. She also is assistant district attorney for the 7th Judicial District. She received a BA degree in 1976 from Louisiana State University and her JD degree in 1979 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 1979 and in Illinois in 1981.

Ann serves in the Louisiana State Bar Association's House of Delegates and is a member of the Legislation Committee. She is a recipient of the LSBA President's Award.

She is a member of the Louisiana District Attorneys Association and is president-elect of the ADA Board of Directors. She is a recipient of the LSU Alumni Chapter Service Award. She is a member of Trinity Episcopal Church.

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### D. Skylar Rosenbloom

#### Member, House of Delegates Liaison Committee

D. Skylar Rosenbloom is senior counsel for Entergy Services, LLC, where he represents Entergy Louisiana in legal and regulatory matters before the Louisiana Public Service Commission and various courts. He received a BS degree in 2001 from Georgetown University's McDonough School of Business and his JD degree in 2007 from Washington & Lee University School of Law. He was admitted to practice in Louisiana in 2007. He also is admitted in Washington, D.C. (2013) and in New York (2014).

Skylar is a member of the Louisiana State Bar Association's (LSBA) House of Delegates, the Committee on the Profession, the Practice Assistance and Improvement Committee and the Legislation Committee. Previously, he served as a member of the LSBA's Board of Governors (First District representative) and the Nominating Committee. He was a member of the 2012-13 Leadership LSBA Class.

He and his wife Brittany have been married for 10 years and are the parents of three children.

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D. Skylar  
Rosenbloom



Keenan K. Kelly

### Keenan K. Kelly

#### Member, House of Delegates Liaison Committee

Keenan K. Kelly has practiced in the Natchitoches firm of Kelly & Townsend, LLC, for 27 years. His primary practice areas are personal injury and criminal defense. He is licensed to practice law in both Louisiana and Texas and is admitted to practice in the U.S. District Courts for the Western and Eastern Districts of Louisiana and the U.S. 5th Circuit Court of Appeals.

Keenan attended Fort Lewis College from 1984-86 (where he played football) but returned to Northwestern State University to complete his undergraduate degree in 1990. He earned his JD degree in 1993 from Loyola University College of Law. While attending law school, he clerked for the New Orleans law firm of Martzell & Bickford.

He is a current member of the Louisiana State Bar Association's (LSBA) Nominating Committee and is beginning his first year of a three-year term on the LSBA's House of Delegates Liaison Committee. He has served in the House of Delegates, representing the 10th Judicial District, since 2002. He has served on the LSBA's Legislation Committee for several years and chaired that committee from 2015-20.

Keenan has served as the vice president of the Natchitoches Parish Bar Association since 1996. He is married to Jennifer Anderson Kelly and has two children.

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## LBSL Accepting Certification Applications in Bankruptcy Law

**T**he Louisiana Board of Legal Specialization (LBSL) will be accepting applications for business bankruptcy law and consumer bankruptcy law certification from now through Sept. 30, 2021.

In accordance with the Plan of Legal Specialization, a Louisiana State Bar Association member in good standing who has been engaged in the practice of law on a full-time basis for a minimum of five years may apply for certification. Further requirements are that each year a minimum percentage of the attorney's practice must be devoted to the area of certification sought, passing a written examination to demonstrate sufficient knowledge, skills and proficiency in the area for which certification is sought, and five favorable references. Peer review shall be used to determine that an applicant has achieved

recognition as having a level of competence indicating proficient performance handling the usual matters in the specialty field. Refer to the LBSL standards for the applicable specialty for a detailed description of the requirements for application: [www.lsba.org/documents/Specialization/LSBAPlanofLegalspecialization2017.pdf](http://www.lsba.org/documents/Specialization/LSBAPlanofLegalspecialization2017.pdf).

In addition to the above, applicants must meet a minimum CLE requirement for the year in which application is made and the examination is administered. Bankruptcy Law CLE is regulated by the American Board of Certification, the testing agency.

Approved specialization CLE courses can be viewed on the LBSL Approved Course Calendar at: [www.lsba.org/MCLE/MCLECalendar.aspx?L=S](http://www.lsba.org/MCLE/MCLECalendar.aspx?L=S).

Check off your specialization and click on "Search Courses" to find approved

specialization CLE.

With regard to applications for business bankruptcy law and consumer bankruptcy law certification, although the written test(s) is administered by the American Board of Certification, attorneys should apply for approval of the Louisiana Board of Legal Specialization simultaneously with the testing agency in order to avoid delay of board certification by the LBSL. Information concerning the American Board of Certification will be provided with the application form(s).

Anyone interested in applying for certification should contact LBSL Specialization Director Mary Ann Wegmann, email [maryann.wegmann@lsba.org](mailto:maryann.wegmann@lsba.org), or call (504)619-0128. For more information, go to the LBSL website: [www.lsba.org/specialization/](http://www.lsba.org/specialization/).

## Louisiana ATJ Commission Receives \$100,000 Grant from NCSC's Justice For All Project

The Louisiana Access to Justice (ATJ) Commission has received a \$100,000 grant from the National Center for State Courts' (NCSC) Justice for All (JFA) Project, funded by The JPB Foundation. This is one of two grants the Commission has received from NCSC under the JFA Project, with the first awarded in October 2019.

The ATJ Commission will use the funds to increase access to civil legal resources in areas with high poverty rates, limited Internet access, and long drive times to the nearest legal aid office or self-help center. These areas, termed "civil legal resources deserts," impact approximately 600,000 Louisiana residents, as uncovered through a Geographic Information Systems Project during the JFA Project in 2020.

"Through the support of NCSC's Justice for All Project, the Commission was able to identify the greatest challenges people in Louisiana face to accessing civil legal aid," Louisiana State Bar Association (LSBA) President Alainna R. Mire said. "Now we will use this information to expand access to civil legal

resources through community-led initiatives thanks to this invaluable opportunity."

NCSC created the JFA grant program to implement two advanced resolutions promulgated by the Conference of Chief Justices and the Conference of State Court Administrators: 1) meaningful access to effective assistance for essential civil legal needs; and 2) for traditional and non-traditional stakeholders to collaborate and develop a comprehensive approach to achieve meaningful access to justice. The JFA Project is housed by NCSC and operated in partnership with the Self-Represented Litigants Network.

In the first grant, the Commission completed the Inventory Assessment and Strategic Planning phases of the JFA Project, which entailed a thorough statewide examination of people's access to in-person civil legal resources in Louisiana. The findings show that one in three people potentially income-eligible for civil legal aid are required to travel long distances for in-person legal help. Review the final report with recommendations at: [www.lsba.org/documents/News/ATJ/JFAFinalReport.pdf](http://www.lsba.org/documents/News/ATJ/JFAFinalReport.pdf).

"When the ATJ Commission received the initial JFA grant, we did not envision having to navigate through a pandemic," Jeffrey K. Coreil, co-chair of the ATJ Commission, said. "But it gave us a great opportunity to understand the impact of civil legal aid and take a deeper dive into mapping what justice for all could look like in Louisiana. We are grateful for the opportunity to continue this work and support the people of Louisiana by creating access points, expanding services and establishing partnerships."

Louisiana's Justice for All leadership includes active participation from the Louisiana Supreme Court, the Louisiana ATJ Commission, the LSBA, legal aid providers, public libraries and local community leaders in areas where access points will be implemented. The Louisiana ATJ Commission is a Louisiana Supreme Court-created standing committee of the LSBA tasked with ensuring all people have access to equal justice under the law regardless of economic circumstance. The Louisiana Justice for All Grant will be administered through the Louisiana Bar Foundation.

*Become a Signatory*

to the LSBA Statement of Diversity Principles

For more information or to view the statement online, visit  
[www.lsba.org/Diversity/DiversityPrinciples.aspx](http://www.lsba.org/Diversity/DiversityPrinciples.aspx)



# Payment Deadline is July 1 for 2021-22 LSBA Dues and LADB Assessment

Louisiana State Bar Association (LSBA) members have the option to pay their 2021-22 LSBA dues and Louisiana Attorney Disciplinary Board (LADB) assessment by ACH electronic check, credit card, or download and mail their Attorney Registration Statement and checks for the payment of fees. Members are encouraged to pay and file electronically, as this access will be available 24/7, including times when the Bar Center is closed or if mail service is disrupted due to inclement weather. Further, electronic payment gives members more control over their information in the database and allows for more timely updates to their member records.

Filing the Attorney Registration Statement is an important part of an LSBA member's annual requirement and can be completed by mail or electronically. Mailing in the Attorney Registration Statement with two separate payments of Dues and Assessment constitutes filing. When paying online, verifying and/or updating member demographic information serves as electronically filing the Attorney Registration Statement.

Again available in this year's dues cycle is the category of Emeritus Status for lawyers who only handle pro bono work or uncompensated work for family members (both subject to certain guidelines and restrictions) and who meet age and practice criteria. Lawyers should review the Emeritus Status guidelines and restrictions for possible election. Review the "Emeritus Status Guidelines and Restrictions and Notice of Application" at: [www.lsba.org/Members/Emeritus.Status.aspx](http://www.lsba.org/Members/Emeritus.Status.aspx).

Election of emeritus status MUST be made prior to payment of the Dues and Assessment and the election deadline for the 2021-2022 membership year is June 30, 2021.

Filing electronically can be a quick and simple process, utilizing the online member accounts that participants have relied on for years to register for CLE seminars and to access Fastcase. If an attorney has

not yet set up a member account, one can easily be created at: <https://www.lsba.org/Members/memberaccts.aspx>. This webpage also allows members to edit their existing accounts and reset a lost or forgotten account password.

After member data is confirmed but before the payment/filing process begins, members will be advised that they also need to go to <https://www.LADB.org> to complete the Louisiana Supreme Court Trust Account Disclosure and Overdraft Notification Authorization Form and will be asked to confirm that they understand this requirement.

The Louisiana Attorney Disciplinary Board is the certifying agency for the Trust filing for LSBA members' IOLTA accounts. Filing is quick and easy at [www.ladb.org](http://www.ladb.org) and any issues concerning trust accounts should be directed to LADB at (504)834-1488.

The collection schedule will be the same as in prior years. In lieu of mailing a statement to each member, in mid-May, the LSBA mailed to each member a postcard, which provided instructions to go online to <https://www.LSBA.org> to complete the registration process, and to go online to <https://www.LADB.org> to complete the Trust Account Form. ***This is the only mailing members will receive prior to the July 1, 2021, due date; attorney registration statements will NOT be mailed.***

With the introduction of the new email address, [compliance@lsbamembership.com](mailto:compliance@lsbamembership.com), the LSBA will email reminders throughout the dues collection period. Members are encouraged to add this email address to their contact list to avoid missing important communications. Members should not reply to this email address, but rather direct questions to [processing@lsba.org](mailto:processing@lsba.org).

Once members have electronically filed their Attorney Registration Statements (including any necessary changes and/or updates) and made the required payments, they will receive email confirmations. The

filing and payment deadline will remain July 1. The LSBA will continue to mail delinquency and ineligibility notices to those who fail to meet the deadlines.

Members who elect to pay by electronic check will continue to pay the following fees:

- ▶ LSBA dues (practicing more than three years): \$200;
- ▶ LSBA dues (Emeritus Status): \$100; and
- ▶ LSBA dues (practicing three years or less): \$80;
- ▶ LADB assessment (practicing more than three years): \$235;
- ▶ LADB assessment (Emeritus Status): \$117.50; and
- ▶ LADB assessment (practicing three years or less): \$170.

***Those who are planning to pay by electronic check should contact their financial institutions to confirm that their accounts allow payment by this method. If your account is Positive Pay Protected, update the Company ID 1016207445.***

As was the case last year, processing fees of 3%, plus a .20 transaction fee, will be passed along to those choosing to pay by credit card. Total amounts, including credit card processing fees, are as follows:

- ▶ LSBA dues (practicing more than three years): \$206.20;
- ▶ LSBA dues (Emeritus Status): \$103.20; and
- ▶ LSBA dues (practicing three years or less): \$82.60;
- ▶ LADB assessment (practicing more than three years): \$242.25;
- ▶ LADB assessment (Emeritus Status): \$121.23; and
- ▶ LADB assessment (practicing three years or less): \$175.30.

Bar staff members will be available to answer questions and provide assistance to members. All questions and concerns should be directed to:

- ▶ Email — [processing@LSBA.org](mailto:processing@LSBA.org)
- ▶ Telephone — (504)566-1600 or (800)421-LSBA; ask for Payment Processing.

# PRACTICE Makes Perfect

By LSBA Practice Assistance and Improvement Committee

CONFLICTS OF INTEREST: PART 2

The *Louisiana Bar Journal's* section — Practice Makes Perfect — focuses on practice tips and general legal information published in the Louisiana State Bar Association Practice Assistance and Improvement Committee's *Practice Aid Guide: The Essentials of Law Office Management*, available 24/7 online at: [www.lsba.org/PracticeAidGuide](http://www.lsba.org/PracticeAidGuide).

The information discussed in this article can be found in Section 2. To read the full Section 2, and to access the referenced forms, sample letters and checklists, go to: [www.lsba.org/PracticeAidGuide/PAG2.aspx](http://www.lsba.org/PracticeAidGuide/PAG2.aspx).

To access the Louisiana Rules of Professional Conduct, go to: [www.ladb.org/Material/Publication/ROPC/ROPC.pdf](http://www.ladb.org/Material/Publication/ROPC/ROPC.pdf).

## Conflicts of Interest

Generally, conflicts of interest fall into two categories. Conflicts may arise from directly adverse representations or where the representation of a client is materially limited as a result of the lawyer's other responsibilities or interests. A directly adverse conflict arises when you are called upon to represent one client against another client. A lawyer cannot represent two opposing parties in the same litigation. Moreover, a lawyer may not act as an advocate in one matter against a client the lawyer currently represents or previously represented in some other matter. Former clients also present a conflict if matters are substantially related to one another.

Even when there is no directly adverse conflict, a conflict of interest may nevertheless exist if there is a significant risk that the lawyer's representation may be materially limited as a result of the lawyer's responsibilities to other clients, to third persons or entities, or as a result of the lawyer's own personal interest.

► This type of conflict may arise



in the context of dual or multiple representations (*i.e.*, representing a husband and a wife, or a buyer and a seller, or two or more clients forming a business entity).

► It also may arise in the context of a financial interest (*i.e.*, owning a percentage of a client's business).

► Further, a conflict may arise in the context of a hidden interest (*i.e.*, romantic or sexual involvement with a client). Nor should you enter into any business transactions with your clients, or knowingly acquire an ownership or other pecuniary interest adverse to your clients.

► You should not enter into an agreement to limit your malpractice liability without first making sure that your client is represented by independent counsel.

You should closely scrutinize the circumstances of each representation to determine whether the clients have “differing interests” that may call for different attorneys representing each client. It is also your duty to reject or disengage from any representation which is going to cloud your independent professional judgment and not allow you to render objective advice.

## Informed Consent

In “Conflicts of Interest: Part 1” (published in the April/May 2021 issue of the *Louisiana Bar Journal*), consentable versus non-consentable conflicts were discussed. You've determined that there is a conflict and that the conflict is consentable. What do you do next?

(Remember, if the conflict is non-consentable, your job is finished except for mailing the non-engagement or disengagement letter.)

First, you must conclude that the conflicting representation will not damage your client's case. The Louisiana Rules of Professional Conduct require that this decision is made using objective, reasonable and independent standards. Second, each client must consent to the representation after being informed of the conflict. The consent that is required is “informed consent.” Rule 1.0 Terminology paragraph “e” defines “informed consent” as “the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and



reasonably available alternatives to the proposed course of conduct.” Informed consent is voluntarily and knowingly granted after full disclosure of all relevant information that likely would influence the client’s decision.

### What to Include in the Client’s Informed Consent Letter?

1) The full disclosure of all relevant information, including actual and foreseeable adverse risks associated with the representation, transmitted in writing to the client in a manner reasonably understood by the client. Tell the client that he now has a choice to make — stay with you and your conflict, or go with a lawyer who does not have a conflict. If he chooses the latter, additional costs may be incurred by the client for the conflict-free new lawyer to catch up. Also, explain to the client that, while you believe it is unlikely, one of the risks of your continued representation is your disqualification from the representation if it is determined that you have violated the conflict rules.

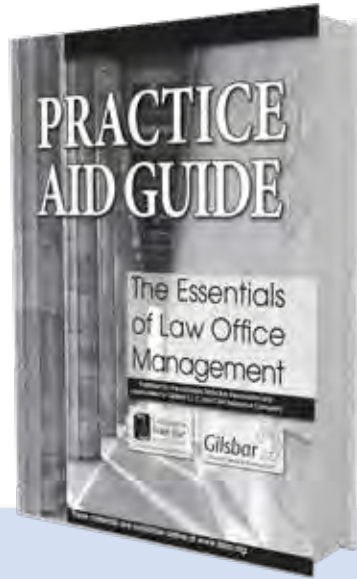
2) An acknowledgment that the client was given a reasonable opportunity, confirmed in writing, to seek the advice of independent counsel in consenting to the conflict, and whether or not the client sought independent counsel.

3) The client’s consent in writing, which includes client acknowledgement that by allowing you to continue the representation, he is foregoing his right to retain another conflict-free lawyer. However, it should be understood by the client that the client’s representation in writing may still not prevent your disqualification, if a court so rules.

4) An acknowledgment that all affected clients were sent the informed consent letter, with the same disclosures described in number 1 above.

5) If applicable, an assurance that any disqualified lawyer will be timely screened from any participation in the matter, will not be given any part of the fee, and will not reveal any protected confidential information.

Having such a detailed informed



### Practice Aid Guide: The Essentials of Law Office Management

Available for download or read for free online - peruse the form depository for a variety of useful forms, letters and checklists to accompany this information at [www.lsba.org/PracticeAidGuide](http://www.lsba.org/PracticeAidGuide)

consent letter, signed by the client, will likely insure against a client asserting that he did not give informed consent because the disclosure of the risks and relevant information was inadequate.

Finally, any conflicts of interest checking system should:

- ▶ be integrated with other office systems;
- ▶ provide conflicts data for everyone in the office;
- ▶ check for varying spellings of names;
- ▶ show any party’s relationship with the client; and
- ▶ remind lawyers to document all conflict search results with memos in the file.

### Other Resources

The LSBA’s *Practice Aid Guide* contains several samples of correspondence dealing with conflicts of interest, including: Conflict of Interest Informed Consent Letter; Conflicts of Interest Checklist; Conflicts of Interest Search Form; Conflicts of Interest Search Results Memo; Conflicts of Interest Non-Engagement Letter; Conflicts of Interest Disengagement Letter; and Conflict of Interest Financial Assistance Agreement.

Remember to practice defensively and conservatively to avoid potential conflicts. If you have a question about your own conduct regarding conflicts, contact the LSBA’s Ethics Advisory Counsel at (504)566-1600, (800)421-LSBA, for free and confidential ethics advice.

## DISPUTE OVER LEGAL FEES?



### The LSBA Lawyer Fee Dispute Resolution Program may be able to help.

Avoid the pitfalls of legal fee disputes such as disciplinary complaints or civil litigation by submitting your legal fee to binding low-cost fee arbitration with the LSBA.

For more information on the process, go to [www.lsba.org/goto/FeeDispute](http://www.lsba.org/goto/FeeDispute) or contact Shawn L. Holahan, Practice Management Counsel/Loss Prevention Counsel, at 504-619-0153 or by email [shawn.holahan@lsba.org](mailto:shawn.holahan@lsba.org).

**Quick, Inexpensive, Informal, and Final resolution of attorney/client and attorney/attorney fee disputes.**

By Kenzie Schott Cardella

LET'S BE REASONABLE

Talking about money is one of the hardest, most important conversations to have with your client. From the beginning of your representation, you must make sure your client understands and agrees to the fee arrangement, whether an hourly rate, contingency-fee basis, retainer or flat fee, as well as the details of the arrangement. This information should be included in your engagement letter and signed by the client before the start of representation.

Regardless of the type of fee charged, your fee must be “reasonable” under Rule 1.5 of the Louisiana Rules of Professional Conduct. Whether a fee is “reasonable” is determined by weighing eight factors provided in Rule 1.5(a) — (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent.

If a fee dispute arises, the court will walk through these eight factors to determine if your fees are reasonable. In *Southern Trace Property Owner's Assn. v. Williams*, 52,653 (La. App. 2 Cir. 9/25/19), 280 So.3d 826, 827, the court held that the attorneys' fees were unreasonable. In its analysis, first the court determined that the underlying case was not complex, although the law not well settled. The court then considered the re-



sults obtained by the attorneys. The court also noted that the case was “lengthy and drawn out” due to the fact that the attorneys were not well prepared. After finding the fees were unreasonable, the court reduced the attorneys' fees to what it determined was a reasonable amount.

While our court system hears many fee disputes like the one in *Southern Trace*, there are alternatives to going to court. One resource is the Louisiana State Bar Association's (LSBA) Lawyer Fee Dispute Resolution Program. The purpose of the program is “to give timely, reasonable and final resolution of disputes over fee issues between clients and their lawyers as well as disputes between lawyers with their fellow attorneys outside of the civil court system through the use of arbitration.” Utilizing this program may be a valuable avenue to take to resolve your fee disputes. Learn more online: [www.lsba.org/practicemanagement/FeeDisputeResolution.aspx](http://www.lsba.org/practicemanagement/FeeDisputeResolution.aspx).

To take advantage of the LSBA's program, you must make sure the client agrees to arbitration in writing before the representation. This agreement could be

part of your engagement letter — signed by the client — or in a separate written fee agreement. The LSBA's Practice Aid Guide (available online) provides sample arbitration clauses you may use as a reference when preparing your engagement letter or fee agreement. While you should have a plan for resolving fee disputes, the best outcome is avoiding fee disputes altogether by communicating with your clients about fees each step of the way. Access the Practice Aid Guide online at: [www.lsba.org/practiceaidguide](http://www.lsba.org/practiceaidguide).

*Kenzie Schott Cardella is an attorney at Gilsbar, LLC, and serves as business development manager of the professional liability division. She received her BBA degree in accounting from Southern Methodist University, is a CPA and earned her JD degree from Louisiana State University Paul M.*

*Hebert Law Center, where she served as editor-in-chief of the Louisiana Law Review. Before joining Gilsbar, she worked in private practice for a New Orleans law firm, practicing in business and transactional law. Email her at [kcardella@gilsbar.com](mailto:kcardella@gilsbar.com).*





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Cherrell Taplin



Hon. Paul Bonin (ret.)



Jay Ginsberg

“My client is looking forward to trying this construction defect case!”

#277 from *Things No One Has Ever Said*, 2021.

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# Lawyers ASSISTANCE

By Board of Directors, Louisiana JLAP

INTRODUCING NEW JLAP EXECUTIVE DIRECTOR

**A**fter an extensive and rigorous search, the Board of Directors of the Louisiana Judges and Lawyers Assistance Program (JLAP) is pleased to announce that it has chosen Dr. Angela White-Bazile, Esq., to serve as JLAP's new Executive Director.

The board made this selection based on Dr. Bazile's skills, experience and professional achievements. She holds degrees from Southern University Law Center and the University of Southwestern Louisiana (University of Louisiana at Lafayette). She also has a Ph.D. in psychology and counseling.

Dr. Bazile is JLAP's first female and first African-American executive director. She began her service on April 5, 2021, and succeeds J.E. (Buddy) Stockwell, who led the organization for 10 years.

Dr. Bazile joins JLAP with more than 20 years of exemplary service to the Louisiana judiciary. Prior to accepting the executive director position, she served as executive counsel to former Louisiana Supreme Court Chief Justice Bernette Joshua Johnson.

A proud wife and mother, licensed realtor and published author, she pulls from her personal and professional values of learning, evolving and serving others in everything she does. She is deeply committed to JLAP's mission and passionate about advocating healing within the legal community. With more than 20 years of legal experience, she is keenly aware of the challenges judges, lawyers, law students and their family members face.

The board is excited and humbled that Dr. Bazile will bring her wealth of knowledge and kind and generous spirit to lead JLAP. Her warmth and practical approach to problem-solving have earned her the esteem of her colleagues. Her experience and education will be a



Dr. Angela White-Bazile

great asset to the organization.

The board is confident that Dr. Bazile is the right leader to work alongside staff, the board and the entire legal community. JLAP will be well-positioned under her guidance to thrive in the years to come.

"I appreciate the board's confidence in me, and I am excited for this new role and the opportunity to educate and empower all Louisiana judges, lawyers, law students and their family members. JLAP is resilient, and I know we can

move forward and continue to provide the excellent services Louisiana judges, lawyers, law students and their family members deserve, while protecting the public," Dr. Bazile said.

As executive director, Dr. Bazile will work closely with the JLAP board and staff, service providers, the Louisiana State Bar Association, the judiciary and other legal entities to ensure the organization continues to adapt to serve people through the COVID-19 pandemic and beyond. Along with overseeing day-to-day operations, she will design the future of the organization and manage the continued expansion of service providers to ensure JLAP is a high-integrity, diverse, inclusive and confidential safe haven that creates conditions for success.

Join us in welcoming Dr. Angela White-Bazile, Esq., to JLAP!

The board also would like to extend its deep appreciation to the JLAP staff during this time of transition. They provided exceptional support and service over the last nine months.

To learn more or to seek confidential help with any type of mental health or addiction issue, contact the professional clinical staff at JLAP at (985)778-0571, email [jlap@louisianajlap.com](mailto:jlap@louisianajlap.com) or visit the website at: [www.louisianajlap.com](http://www.louisianajlap.com).

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**Judges and Lawyers Assistance Program, Inc. (JLAP)**

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A LEADING MARITIME CONFERENCE IN THE GULF SOUTH REGION

# High Stakes on the High Seas

**Friday, August 21, 2021**

Windsor Court Hotel . New Orleans



## **Recent Developments in Maritime Law**

**Judge Carl J. Barbier**

U.S. District Court  
Eastern District of Louisiana  
New Orleans

**Judge John W. deGravelles**

U.S. District Court  
Middle District of Louisiana  
Baton Rouge

## **The Ethics of Negotiating**

**Magistrate Judge Dana M. Douglas**

U.S. District Court  
Eastern District of Louisiana  
New Orleans

**Beth E. Abramson**

Lewis, Kullman, Sterbcow & Abramson, LLC  
New Orleans

## **Perils of the Sea: Seaman Status in the Fifth Circuit After Sanchez**

**LSU Interim President**

**Thomas C. Galligan, Jr.**

Louisiana State University  
Baton Rouge

## **Medicare Set-Aside Regulatory Update for 2021**

**John V. Cattie, Jr.**

Cattie & Gonzalez, PLLC  
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## **Moderator:**

**Ian F. Taylor**

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LAJ 2020-21 Maritime Law Section Chair

The agenda is subject to change.

To become a High Stakes sponsor, contact Robin Wilder, [rwilder@lafj.org](mailto:rwilder@lafj.org) or 225-242-4826.





# Thanks to 2020-21 LSBA Committee on Diversity in the Legal Profession

The Louisiana State Bar Association (LSBA) would like to thank the 2020-21 members of the Committee on Diversity in the Legal Profession for their service.

The mission of the committee is to

assess the level of racial, ethnic, national origin, religion, gender, age, sexual orientation and disability diversity within all components of the legal profession in Louisiana; to identify barriers to the attainment of full and meaningful rep-

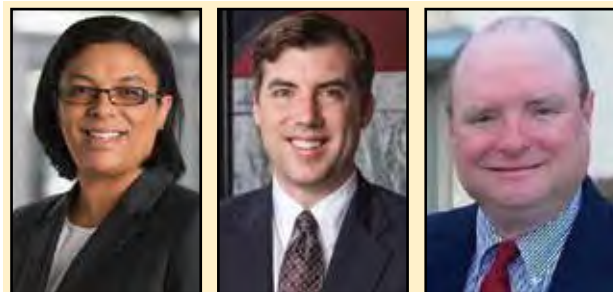
resentation and participation in the legal profession by persons of diverse backgrounds; and to propose programs and methods by which the LSBA can most effectively work to remove the barriers and achieve greater diversity.

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LSBA Diversity Committee and Conclave Subcommittee Co-Chairs, from left, Denia S. Aiyegbusi, Deutsch Kerrigan, LLP; J. Dalton Courson, Stone Pigman Walther Wittmann, LLC; and John A. Womble, Frederick A Miller & Associates.

## Leading Through Crisis

The Louisiana State Bar Association (LSBA) would like to thank the Diversity Committee members and the leadership of the Diversity Committee and Subcommittees for continuing to work with LSBA staff to provide invaluable programming to members through the coronavirus pandemic.



LSBA Integration Subcommittee Co-Chairs, from left, attorney Arlene D. Knighten and attorney Chantel M. Smith.



LSBA Awards Subcommittee Co-Chairs, from left, Judge Karelia R. Stewart, 1st Judicial District Court; and Barbara B. Ormsby, Deutsch Kerrigan, LLP.



LSBA LGBT Subcommittee Co-Chairs, from left, Susan R. Laporte, Kuchler Polk Weiner, LLC; and Andrea L. Rubin, Sternberg, Naccari & White, LLC.

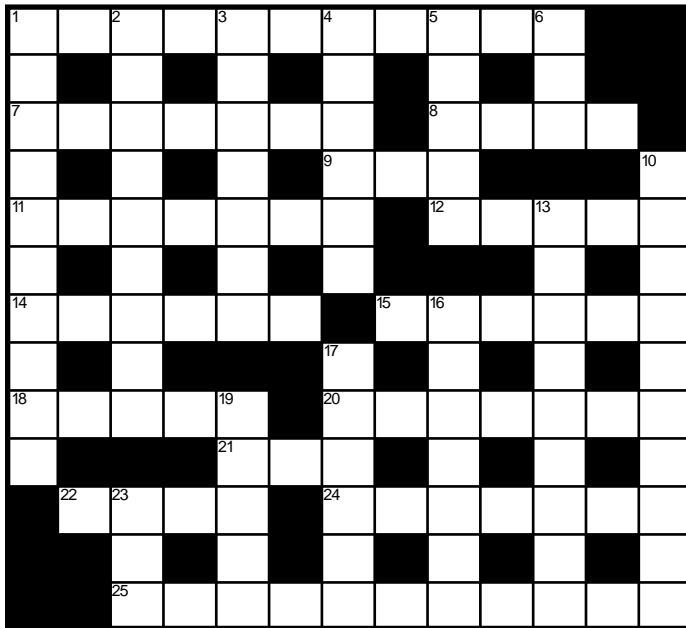


LSBA Pipeline to Diversity and Outreach Co-Chairs, from left, Scherri N. Guidry, 15th Judicial District Court Public Defender Office; and Janell M. McFarland-Forges, 4th Circuit Court of Appeal.

# Crossword PUZZLE

By Hal Odom, Jr.

## IN A SENTENCE OR LESS



### ACROSS

- 1 Sentences that run one after the other (11)
- 7 Kind of energy often mispronounced (7)
- 8 Hard \_\_\_\_, that served in Angola (4)
- 9 Sales and \_\_\_\_ tax (3)
- 11 Kind of punishment prohibited by the Eighth Amendment (7)
- 12 Expire; minor slip (5)
- 14 Lessee (usually); lessor (rarely) (6)
- 15 Kind of review without deference to trial court's factual findings (2, 4)
- 18 Stocking or fishnet material (5)
- 20 Internet identities; embodiments of a deity (7)
- 21 "\_\_\_\_ the ramparts we watched" (1'2)
- 22 Holding facility; place for 25 Across offenders (4)
- 24 Just alike, or very similar (2, 1, 4)
- 25 Offense not subject to death or hard labor; offense subject to one year or less (11)

### DOWN

- 1 Sentences that run at the same time (10)
- 2 Coming out at night (9)
- 3 Require to serve (a sentence); put to death (a prisoner) (7)
- 4 Disorderly, like a mob (6)
- 5 A big chip maker; what recon may provide (5)
- 6 Street in eight "nightmare" movies (3)
- 10 Motion to \_\_\_\_, a routine filing to challenge length of sentence (10)
- 13 Term of a suspended sentence subject to conditions (9)
- 16 Flow out or issue (from) (7)
- 17 Kind of early release (6)
- 19 No contest pleas, informally (5)
- 23 Weapon, generically (3)

Answers on page 86.

## SOLACE: Support of Lawyers/Legal Personnel — All Concern Encouraged

The Louisiana State Bar Association/Louisiana Bar Foundation's Community Action Committee supports the SOLACE program. Through the program, the state's legal community is able to reach out in small, but meaningful and compassionate ways to judges, lawyers, court personnel, paralegals, legal secretaries and their families who experience a death or catastrophic illness, sickness or injury, or other catastrophic event. For assistance, contact a coordinator.

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For more information, go to: [www.lsba.org/goto/solace](http://www.lsba.org/goto/solace).

# FOCUS ON Professionalism

By Lauren E. Godshall

VIRTUAL PRACTICE, REAL PROFESSIONALISM

In March 2021, the American Bar Association's (ABA) Standing Committee on Ethics and Professional Responsibility released "Formal Opinion 498: Virtual Practice."<sup>1</sup> While this opinion did not break any new ground, it did bring together many different threads on virtual practice during pandemics, disasters and even vacations into a single place, and so serves as a worthwhile summary for lawyers to review in light of our professionalism obligations.

The ABA broadly defines a virtual law practice as "technologically enabled law practice beyond the traditional brick-and-mortar law firm." Under that definition, any attorney with a smart phone is engaged in a somewhat virtual practice, but "there is no requirement in the Model Rules that a lawyer have a brick-and-mortar office" at all.

The opinion goes through issues of professional conduct that are particularly implicated by an all-online lawyering world — although, importantly, it notes that the rules of practice are the same across the board for all kinds of lawyers, whether in an office surrounded by physical stacks of paper or in a desk in one's own home, paperless and entirely online.

Formal Opinion 498 reminds us that the very basic rules of competence, diligence and communication remain unchanged. Lawyers need to understand relevant technology (and the risks associated with that relevant technology), and the difficulty or personal inconvenience of a virtual practice to a lawyer is no excuse. The ABA has been focused on this for a few years now, and state bars are starting to agree. North Carolina and Florida have changed their CLE requirements to include mandatory programming on the use of technology by lawyers. Louisiana's own Code of Professionalism includes our oaths as lawyers to "use technology, including social media, responsibly. My words and actions, no matter how conveyed, should reflect the professionalism expected of me as a lawyer. . . . I will stay informed about changes in the law, communication, and technol-

ogy which affect the practice of law."

Next up is confidentiality; the same rules of maintaining the confidentiality of client information and work product apply, but care must be taken where there are additional parties involved in storing and transmitting that information. Remote servers, online drop-boxes and web-based email programs are necessary tools in a global pandemic, but they are also all places where we are trusting an outside company to handle and store our information without glancing at it. Lawyers do not necessarily need to use multi-factor encryption for every email, but we must engage in reasonable efforts to protect our confidential information. And "reasonable efforts" are not defined statically, but rather depend on what is reasonable given the sensitivity of the information and the dangers of inadvertent disclosures.

The opinion also briefly touches on supervision obligations, noting that "practicing virtually does not change or diminish" any of our obligations to effectively supervise others.

Most usefully, the last half of Formal Opinion 498 sets out actual practice tips for lawyers in how to best manage our professional and ethical obligations when working from a spare bedroom. For instance, we are reminded to review the terms of service for both hardware and software. While this sounds incredibly tedious, it's also extremely important — a fact that Google itself recognizes in the introduction to its own Terms of Service: "We know it's tempting to skip these Terms of Service, but it's important to establish what you can expect from us as you use Google services . . ."<sup>2</sup> There are differences that may matter between services; for example, Dropbox's terms of service note that Dropbox may review the content of documents stored in your account for certain reasons, while Box.com's terms of service substantially limit the ability of Box.com to review content of your account.<sup>3</sup> Neither system, however, eliminates the possibility of review entirely so, again, lawyers must eval-

uate for themselves what is reasonable for their clients and their own practice.

Ideas for improving the security of Zoom meeting rooms — including setting up a meeting-specific password and controlling the admittance of guests — are covered. We are reminded that Alexa, or her listening-enabled equivalents, may be listening in on our strategic meetings unless disabled in advance. Shared home devices that double as online-school-classrooms will need special account-specific log-ins set up.

A year in to COVID-19 and none of this may be surprising or unexpected, but the Formal Opinion 498 is a good reminder to check on our practice and ensure that, wherever we may be, we are maintaining our Professionalism Oath to use technology responsibly.

## FOOTNOTES

1. ABA Formal Opinion 498, [www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/aba-formal-opinion-498.pdf](http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba-formal-opinion-498.pdf), accessed April 5, 2021.

2. Google Terms of Service, <https://policies.google.com/terms>, accessed April 5, 2021.

3. Dropbox Terms of Service, [www.dropbox.com/terms](http://www.dropbox.com/terms), accessed April 5, 2021 ("Dropbox may review your conduct and content for compliance with these Terms and our Acceptable Use Policy."); Box.com Terms of Service, [www.box.com/legal/termsof-service](http://www.box.com/legal/termsof-service), accessed April 5, 2021 ("we agree that your content, credit card/banking information and information contained in your account is confidential to you.").

Lauren E. Godshall is a clinical instructor for the Tulane Environmental Law Clinic. She received a BA degree, high honors, in environmental sciences in 2000 from the University of California-Berkeley and her JD degree in 2003 from New York University School of Law. She is a former co-chair of the Louisiana State Bar Association's Legal Services for Persons with Disabilities Committee. She has served as chair of the board of Families Helping Families of New Orleans, which provides services and advocacy for disabled people and their families, as well as on the board of the Down Syndrome Association of Greater New Orleans. ([lgodshall@tulane.edu](mailto:lgodshall@tulane.edu); 6329 Freret St., New Orleans, LA 70118)





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## REPORT BY DISCIPLINARY COUNSEL

Public matters are reported to protect the public, inform the profession and deter misconduct. Reporting date March 30, 2021.

### Decisions

**Paul John Barker**, formerly of New Orleans, (2021-OB-00184) **Reinstated to active status** by order of the Louisiana Supreme Court on March 23, 2021. JUDGMENT FINAL and EFFECTIVE on March 23, 2021.

**Craig T. Broussard**, Lafayette, (2021-OB-00228) **Permanently resigned from the practice of law in lieu of discipline** by order of the Louisiana Supreme Court on March 23, 2021. JUDGMENT FINAL and EFFECTIVE on March 23, 2021.

*Gist:* Respondent, while on probation, created a false judgment, forged a district court judge's signature on the false judgment, and forwarded a copy of same to his client.

**Carl B. Duke, Jr.**, formerly of Baton Rouge, (2020-B-1272) **On consent, suspended from the practice of law for a period of two years, with all but one year and one day deferred, retroactive to his interim suspension of July 31, 2019**, by order of the Louisiana Supreme Court on Feb. 17, 2021. JUDGMENT FINAL and EFFECTIVE on Feb. 17,

2021. *Gist:* Commission of a criminal act (arrested in two alcohol-related incidents).

**Scott Michael Emonet**, Baton Rouge, (2020-B-01119) **Publicly reprimanded (consent) with one-year unsupervised probation, subject to conditions**, by order of the Louisiana Supreme Court on Nov. 24, 2020. JUDGMENT FINAL and EFFECTIVE on Nov. 24, 2020. *Gist:* Negligently mishandling his client trust account; and violating the Rules of Professional Conduct.

**Suzan E. Jackson**, New Orleans, (2020-B-01203) **Suspended from the**



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## DISCIPLINARY REPORT: UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

The following is a verbatim report of the matters acted upon by the United States District Court for the Eastern District of Louisiana, pursuant to its Disciplinary Rules. This information is published at the request of that court, which is solely responsible for the accuracy of its content. This report is as of April 1, 2021.

Respondent	Disposition	Date Filed	Docket No.
Julia Lee Deal	[Reciprocal] Suspension, fully deferred.	2/22/2021	20-3046
Charles Kraemer Diel	[Reciprocal] Suspension.	3/2/2021	20-3386
Scott Michael Emonet	Public reprimand.	2/22/2021	20-3381
Rudy W. Gorrell, Jr.	Public reprimand.	2/22/2021	20-3382
Stephen Arnold Jefferson	[Reciprocal] Immediate interim suspension.	3/16/2021	20-3385
Gregory Johnson	Permanent resignation.	3/22/2021	20-3455
Danny Patrick Keating, Jr.	Permanent resignation.	3/16/2021	20-3384
Elzey Jeffrey Perilloux	[Reciprocal] Immediate interim suspension.	2/22/2021	20-3235
Denis Collins Swords	[Reciprocal] Suspension, partially deferred.	2/22/2021	20-2975

**Discipline** continued from page 42

**practice of law for one year and one day** by order of the Louisiana Supreme Court on Jan. 20, 2021. JUDGMENT FINAL and EFFECTIVE on Feb. 3, 2021. *Gist:* Respondent mishandled her client trust account and failed to cooperate with the ODC in its investigation.

**Stephen A. Jefferson**, Monroe, (2021-OB-00204) **Permanent resignation from the practice of law in lieu of discipline** by order of the Louisiana Supreme Court on March 23, 2021. JUDGMENT FINAL and EFFECTIVE on March 23, 2021. *Gist:* Respondent committed serious attorney misconduct, the most significant of which involves the conversion of client funds.

**Michael Wayne Kelly**, Shreveport, (2020-OB-01436) **Conditionally readmitted to the practice of law, subject to a two-year period of supervised probation**, by order of the Louisiana Supreme Court on March 2, 2021. JUDGMENT FINAL and EFFECTIVE on March 2, 2021. Kelly has proved by clear and convincing evidence that he satisfies the criteria for readmission to the practice of law in the State of Louisiana.

**Kevin P. Kleinpeter**, Baton Rouge, (2020-B-1125) **By consent, suspended from the practice of law for one year, fully deferred, subject to probation**, by order of the Louisiana Supreme Court on Jan. 20, 2021. JUDGMENT FINAL

and EFFECTIVE on Jan. 20, 2021. *Gist:* Commission of a criminal act (DWI).

**Donald J. Melancon**, formerly of New Orleans, (2020-B-1177) **Suspended from the practice of law for a period of one year and one day, with six months deferred, subject to two years' supervised probation**, by order of the Louisiana Supreme Court on Jan. 20, 2021. JUDGMENT FINAL and EFFECTIVE on Feb. 3, 2021. *Gist:* Mismanagement of trust account, resulting in commingling and conversion of funds.

**Morris W. Reed**, Kenner, (2021-B-00036) **Consented to suspension from the practice of law for six months, fully deferred, subject to condition**, by order of the Louisiana Supreme Court on March 2, 2021. JUDGMENT FINAL

and EFFECTIVE on March 2, 2021. *Gist:* Commingling client funds; failure to maintain sufficient recordkeeping/performing bank reconciliations; and violating the Rules of Professional Conduct.

**Michael Brian Rennix**, Shreveport, (2020-B-00922) **Permanent disbarment from the practice of law** by order of the Louisiana Supreme Court on Nov. 4, 2020. JUDGMENT FINAL and EFFECTIVE on Nov. 18, 2020. *Gist:* Neglecting legal matters; failing to communicate with clients; failing to return unearned fees; converting client funds; practicing law while ineligible to do so; failing to cooperate with the ODC in its investigation; engaging in dishonest conduct; and violating the Rules of Professional Conduct.

Continued page 44

**CHRISTOVICH & KEARNEY, LLP**  
— ATTORNEYS AT LAW —

***DEFENSE OF ETHICS COMPLAINTS AND CHARGES***

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**H. CARTER MARSHALL**

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**Discipline** continued from page 43

**Kevin Michael Steel**, Gretna, (2020-B-01235) **Transferred to disability inactive status** by order of the Louisiana Supreme Court on Feb. 17, 2021. JUDGMENT FINAL and EFFECTIVE on Feb. 17, 2021.

**Margot A. Tillman-Fleet**, Baton Rouge, (2020-B-1040) **Disbarred from the practice of law** by order of the Louisiana Supreme Court on March 2, 2021. JUDGMENT FINAL and EFFECTIVE on March 16, 2021. *Gist:* Receipt of federal grant funds through fraudulent means.

**Jack H. Tobias**, New Orleans, (2021-OB-00287) **Transferred to disability inactive status** by order of the Louisiana Supreme Court on March 9, 2021. JUDGMENT FINAL and EFFECTIVE on March 9, 2021.

**Stacy Michele Young**, formerly of Shreveport, (2020-B-1176) **Disbarred from the practice of law** by order of the Louisiana Supreme Court on March 9, 2021. JUDGMENT FINAL and EFFECTIVE on March 23, 2021. *Gist:* Intentionally retaining clerk of court re-funds erroneously sent to her, resulting in conversion of funds belonging to her former law firm and its clients.

**Admonitions** (private sanctions, often with notice to complainants, etc.) issued since the last report of misconduct involving:

Rule 1.3 — Lack of diligence in representing a client.

Rule 1.16(d) — Failing to timely return a client’s file and unearned fee upon termination of representation.

Rule 8.4(c) — Engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

# 2022 EXPERT WITNESS, CONSULTANT AND LEGAL SERVICES DIRECTORY

The Louisiana State Bar Association is publishing its Expert Witness, Consultant and Legal Services Directory. The supplement to the *Louisiana Bar Journal* will be printed separately and shrink-wrapped for mailing with the December 2021/January 2022 *Louisiana Bar Journal*. The directory is published annually, guaranteeing a year’s worth of exposure in print and on the LSBA Web site.

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### Trustee Standing and Attorneys' Fees

*In re Community Home Fin. Servs., Inc. v. Johnson*, 990 F.3d 422 (5 Cir. 2021).

The bankruptcy court awarded fees to the bankruptcy debtor's counsel for services performed in connection with adversary proceedings the debtor brought against its two largest creditors to challenge the priority of certain claims. The adversary proceedings were filed prior to the appointment of a trustee. *Id.* at 424. The creditors appealed the fee award, and the district court remanded for further findings of fact regarding the fees. *Id.* at 425. The

bankruptcy court again approved the fees, concluding that the services were necessary to the administration of the bankruptcy case and reasonably likely to benefit the bankruptcy estate. *Id.* The creditors again appealed, and the district court vacated the fee award, holding that the debtor's counsel's decision to pursue the adversary proceedings "was not a good gamble." *Id.* Debtor's counsel and the trustee appealed, arguing that the district court improperly evaluated the benefit of the adversary proceedings retrospectively. *Id.* Debtor's counsel settled their fee dispute with the creditors, and the trustee remained as the only appellant. *Id.* The creditors moved to dismiss the appeal as moot on the grounds that the trustee had no pecuniary interest in the judgment and lacked standing as a result. *Id.* at 425-26.

In rejecting the creditors' argument, the 5th Circuit cited 1st, 4th, 6th and 9th Circuit decisions that recognized that the pecuniary-interest test was inadequate to determine trustee standing

and that trustee standing arises from the trustee's official duty to enforce the bankruptcy law in the public interest. *Id.* at 426-27. The court also cited a previous 5th Circuit decision for the idea that a trustee's standing comes from the trustee's duties to administer the bankruptcy estate, not from any pecuniary interest in the bankruptcy. *Id.* at 427. The 5th Circuit ultimately held that the trustee had standing and the case was not moot because the payment of fees to debtor's counsel had a direct impact on the administration of the bankruptcy estate and because the trustee remained tasked with ensuring that only proper payments were made from the estate. *Id.*

The court then addressed the district court's decision to vacate the bankruptcy court's fee awards based on a retrospective assessment of the propriety of the adversary proceedings. *Id.* at 427-28. Citing clear 5th Circuit precedent that holds that the services must be reasonable at the time they were rendered, the 5th Circuit held that the district court



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erred in vacating the bankruptcy court’s fee awards. *Id.* The 5th Circuit stated that the district court had improperly assessed the benefit of counsel’s services to the estate from hindsight rather than assessing the reasonableness and likely benefit from the time the services were rendered. *Id.* at 428. The court further explained that, when viewed prospectively, pursuit of the adversary proceeding by debtor’s counsel was necessary to the administration of the case to resolve otherwise unsettled disputes about the priority of claims. *Id.*

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## One for the Textbooks: 5th Circuit Issues Instructive Opinion on Judicial Review

*Barnett & Associates, LLC. v. Whiteside*, 20-0362 (La. App. 5 Cir. 12/11/20), 308 So.3d 1218.

In this case, arising out of the 24th Judicial District Court for Jefferson Parish, the trial court overruled defendants’ exceptions of prescription and peremption. Defendants filed a notice of their intent to appeal; *in the alternative*, the notice requested issuance of a supervisory writ. Two weeks later, defendants/appellants hand-delivered a letter to the clerk of court clarifying that they sought a devolutive appeal “regardless.” In accordance with those instructions,

the 5th Circuit Court of Appeal took up the matter as a devolutive appeal. Judge Stephen J. Windhorst penned the court’s unanimous opinion.

The court began with an unequivocal statement of the dispositive rule: a trial court judgment overruling an exception or denying a motion — as here — is inherently *not* an appealable final judgment, but rather an interlocutory one subject only to supervisory jurisdiction. As the court explained, “an interlocutory judgment does not determine the merits, but only preliminary matters in the course of the action, while a final judgment determines the merits in whole or in part.” Thus, because the overruling of an exception, as opposed to it being sustained, “does not change the posture of the case,” it is merely an interlocutory judgment. While final judgments are appealable in all cases in which appeals are given by law, interlocutory judgments are appealable only where the law expressly so provides. In lieu of any such express provision, the court was, therefore, obligated to dismiss the appeal for lack of appellate jurisdiction.

To complicate matters, however, defendants had requested supervisory review in the alternative to an appeal. Addressing whether it could in fact “convert” the appeal into a request for a writ, the court elaborated on the differences between appellate and supervisory jurisdiction: whereas appeals are “of right,” that is, a party is entitled to an appeal so long as the law allows for one,

supervisory writs rely on supervisory jurisdiction, which is purely discretionary on the part of appellate courts; appeals “divest the trial court of jurisdiction over all matters reviewable on appeal,” while matters under supervisory jurisdiction are ultimately returned to the trial court’s jurisdiction. Furthermore, critically, appellate rulings create “either binding or persuasive precedents,” while supervisory rulings generally do not.

For these reasons, the court stated, exercise of appellate and supervisory jurisdiction are “mutually exclusive;” therefore, appeals and applications for writs are procedurally incompatible and may not be pled in the alternative to one another. Although the issues presented in this case required a fairly simple application of the law, the court’s discussion thereof provides a useful summary for practitioners seeking to disentangle the two forms of judicial review commonly available to them.

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## Corporate Transparency Act

On Jan. 1, 2021, Congress passed the Corporate Transparency Act (CTA) as part of the National Defense Authorization Act and under the umbrella of the Anti-Money Laundering Act of 2020 (AMLA). (H.R. 6395, 116th Congress, Title LXIV (2021), enacting 31 U.S.C. § 5336, amending 31 U.S.C. §§ 5321 & 5322, and enacting provisions set out in 31 U.S.C. §§ 5301 and 5311.)

This is the first update to the U.S.'s anti-money laundering laws in more than 20 years which, in turn, gives FinCEN authority to adopt regulations to implement the provisions of the CTA.

The CTA was designed to prevent illegal activities performed through anonymous shell companies by requiring the reporting of the identity of the “beneficial owners” of such companies. The CTA defines a “beneficial owner” as an individual who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, exercises substantial control over an entity or owns or controls at least 25% of the ownership interests in an entity. Excluded from the reporting requirements are minor children, persons who might become beneficiaries only upon the death of another, agents and custodians of interests, persons who have interest only through employee benefits and creditors of the entity.

The CTA requires the following: (1) establishment of new federal beneficial-ownership reporting requirements for certain U.S.-domiciled or active entities, including foreign entities operating in the United States; and (2) FinCEN’s maintenance of a federal database for the beneficial-ownership information collected.

These reporting requirements apply to existing corporations, LLCs and other similar entities as well as new entities upon their formation.

The CTA does provide exemptions for companies that are larger, more heavily regulated, and already provide information to a relevant government agency. The CTA explicitly exempts the following: (1) companies that employ more than 20 people, report revenues of more than \$5 million on tax returns and have a physical presence in the United States; (2) most financial services institutions, including investment and accounting firms, securities trading firms, banks and credit unions that report to and are regulated by government agencies; and (3) churches, charities and other nonprofit organizations.

These reporting obligations affect business entities in that they may potentially create onerous reporting obligations, pose civil and criminal penalties for failure to comply and put privacy benefits from using business entities for reasonable and

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legitimate purposes at risk. To combat the fears of unauthorized data disclosure, the CTA ensures that this information is to be used only for law enforcement, national security or intelligence purposes.

Violations for failure to comply with these reporting requirements carry civil penalties up to \$500 for every day the violation continues and criminal fines up to \$10,000 and/or imprisonment for up to two years. The unauthorized disclosure of information by a government employee or third-party recipient carries the same \$500-per-day civil penalty but includes a higher criminal penalty of up to \$250,000 and/or a higher maximum term of five years imprisonment.

Compliance with these requirements does not start until Jan. 1, 2022, pursuant to the Secretary of the Treasury's requirement to promulgate regulations under the CTA no later than one year after its enactment.

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## U.S. 5th Circuit Rejects Endangered Species Act Challenges to Gulf Coast LNG Project

*Sierra Club v. U.S. Dept. of Interior*, 990 F.3d 909 (5 Cir. 2021).

The U.S. 5th Circuit Court of Appeals denied environmental organizations' petitions for review of an incidental take statement (ITS) and biological opinion (BiOp) issued by the U.S. Fish and Wildlife Service (the Service) regarding endangered jaguarundi and ocelots. The ITS and BiOp were issued pursuant to Sections 7 and 9 of the Endangered Species Act (16 U.S.C. §1531 *et seq.*) in connection with

the proposed construction and operation of Annova's \$5.2 billion liquefied natural gas (LNG) project in south Texas. The court ruled that the Service adequately identified the reasons underlying its conclusion that the continued existence of endangered jaguarundi, which have not been observed in Texas since the 1980s, and endangered ocelots, which number fewer than 50 in the United States, would not be jeopardized by the construction and operation of Annova's 750-acre LNG project in the cats' habitat.

The court rejected petitioners' contentions that the Service's ITS failed to: (1) set a clear take limit; (2) set an enforceable trigger for re-initiation of formal consultation; and (3) include reasonable and prudent measures to mitigate effects of the project. The 5th Circuit reasoned that: (1) the Service's ITS adequately identified the amount or extent of anticipated take by authorizing harm or harassment to "one endangered cat," in the aggregate, including both ocelot and jag-

uarundi, during the life of the project; (2) the Service's trigger for re-initiation of consultation — if more than one endangered cat was harmed or harassed during the project — was clear and enforceable; and (3) although the ITS lacked a recitation of reasonable and prudent conservation measures, the commitments required by the Service were already incorporated into the project description.

The court also rejected petitioners' argument that the Service's BiOp failed to account for the cumulative effects of an adjacent, proposed LNG project. The court determined that the Service was justified in ignoring the cumulative effects of the proposed LNG project, which was to be located on the opposite bank of the Brownsville Ship Channel, in part because it was deemed to be a separate area of action.

Ultimately, the court adhered to the narrow and highly deferential standard set forth under the Administrative Procedure Act and refused to second-

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guess the Service's determination because the Service "identified the reasons underlying its conclusion . . . [and] articulated a rational connection between these reasons and that conclusion." The court added, "[t]his is all that the ESA and its implementing regulations require."

**Clean Air Act Settlement  
Approved Despite Lack  
of Deterrent**

*United States v. Williams Olefins, LLC*, No. 19-465 (M.D. La. Mar. 24, 2021), 2021 WL 1118733.

The U.S. District Court for the Middle District of Louisiana granted approval for the United States to settle a Clean Air Act (CAA) lawsuit despite the absence of a deterrent. The case arose from a 2013 explosion at the Williams Olefins (now NOVA Chemicals Olefins) Geismar plant that killed two employees, injured 167 people and released thousands of pounds of hazardous substances, leading the United States to file its CAA lawsuit in 2019. The United States filed its proposed settlement concurrently with the lawsuit, seeking a \$750,000 fine.

Courts must determine whether CAA settlements are fair, adequate, reasonable and in the public interest, looking to the public objectives sought to be obtained by Congress. One of these objectives is deterrence, which the court found lacking; Judge Shelly Dick stated that it would be "hard for this Court to fathom that a civil fine of \$750,000 would accomplish the goal of deterrence." Despite "strong reservations," the court acknowledged that a presumption exists in favor of voluntary settlement, particularly when negotiated on behalf of an agency like the EPA, which enjoys substantial expertise in environmental matters.

The evidence on the record was insufficient to overcome this presumption, as it appeared that the parties reached the settlement amount by an arms-length, bargained-for, negotiated process. Furthermore, the public interest was served by avoiding expensive and lengthy litigation that would ultimately decrease the net value of any penalty exacted and would delay the pay-

ment thereof. Altogether, failure to deter was not a sufficient basis to upset the settlement without other evidence of unfairness or inadequacy.

**Oyster Lease  
Damage Evaluation  
Board Calculations  
Inadmissible Absent  
Pre-Damage Biological  
Survey**

*Melerine v. Tom's Marine & Salvage, LLC*, 20-0571 (La. 3/24/21), \_\_\_\_ So.3d \_\_\_\_, 2021 WL 1115357.

The Louisiana Supreme Court held that damage calculation guidelines developed by the Oyster Lease Damage Evaluation Board (OLDEB) are irrelevant and inadmissible to prove damages to oysters unless a pre-damage biological assessment has been performed. The Louisiana Legislature created OLDEB to establish a uniform system for compensating oyster farmers for damage caused by oil and gas activity. The damage calculations developed by OLDEB rely on a comparison of biological surveys — one taken prior to activity within the oyster lease and another taken upon completion of such activity. *See*, La. R.S. 56:700.12(4). Without both surveys, there can be no comparison. Accordingly, the court ruled that, without a pre-activity survey, evidence of OLDEB guidelines and uniform evaluation methods lack probative value and are irrelevant and inadmissible in oyster damage cases. This effectively forecloses the use of OLDEB evidence in cases where oyster damage is unforeseen; plaintiffs in this case conducted no pre-damage survey because they did not anticipate defendant running a tugboat aground on their oyster lease.

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## Community Property

**Boutte v. Boutte**, 20-0985 (La. 2/9/21), 309 So.3d 731 (denying application for reconsideration).

The Supreme Court did not consider this application for reconsideration. However, Justice Crichton would have granted the application, stating that, although the Louisiana Supreme Court rules prohibit reconsideration of a prior writ denial, he would make an exception to achieve the interest of justice when good cause was shown in extraordinary circumstances. Here, he would have reconsidered the matter in light of the recent U.S. Supreme Court decision of *Howell v. Howell*, 137 S.Ct. 1400 (2017), in which the Court held that the Uniformed Services Former Spouses' Protection Act preempted states from treating as community property military-retirement pay waived by a veteran in order to obtain non-taxable service-related disability benefits.

**Breaux v. Breaux**, 20-0618 (La. App. 1 Cir. 2/19/21), 2021 WL 651556 (unpublished).

After the trial court, during partition proceedings, classified two properties as Mr. Breaux's separate property, that judgment was designated as immediately appealable, and Ms. Breaux appealed it. On its own motion, the court of appeal reviewed whether the ruling was appealable, stating that the designation of appealability is not determinative of the court's appellate jurisdiction. Notably, the court stated that there is a policy that "attempts to strike a balance between the undesirability of piecemeal appeals and the need for making review available at a time that best serves the needs of the parties." Because the judgment addressed only the classification of the properties, and the remainder of the partition re-

mained pending, the court found that the judgment did not resolve all the partition issues, and, consequently, was not an appealable judgment.

## Child Support

**Bernstein v. Bernstein**, 19-1106 (La. App. 4 Cir. 2/10/21), \_\_\_So.3d\_\_\_, 2021 WL 503309.

Direct payments that Mr. Bernstein's family business made to the Internal Revenue Service for Mr. Bernstein's personal tax debt were appropriately not included in his income for child-support purposes because he never actually received these tax distributions and had no control over whether or when he received the payments, and he could not use them for support purposes. The court of appeal found that the trial court did not err in deviating from the guidelines by not adding these tax distributions to his income. Further, the trial court did not err in not "adding on" the tuition for the minor children to Mr. Bernstein's child-support obligation as their tuition was paid by his family business. The trial court did not err in extending Ms. Bernstein's interim spousal support beyond 180 days after the parties divorced because the interim spousal support hearing did not take place until more than two years after the date of demand, primarily due to Mr. Bernstein's failure to comply with court orders and to produce his financial records. Further, she did not have to file a separate pleading to request an extension of the interim spousal support period, but could do so during trial or after trial in a

posttrial memorandum.

## Custody

**Wolfe v. Breaud**, 21-0061 (La. App. 1 Cir. 3/4/21), 2021 WL 825182 (unpublished).

Ms. Breaux filed an exception of no cause of action to Mr. Wolfe's allegations concerning his request to modify a previous custody schedule. The district court denied the exception in part, and she applied for a supervisory writ. The appellate court denied the writ but noted that the district court's judgment "resulted in an impermissible partial grant of an exception of no cause of action." Judge Guidry dissented. He would have granted the writ and reversed the part of the trial court's judgment that denied her exception regarding the failure to state sufficient facts to meet the standard to modify a prior custody judgment. He noted that in granting that exception, he would have dismissed Mr. Wolfe's amended rule as Mr. Wolfe did not seek review of the part of the judgment that partially granted her exception of no cause of action. As he would have reversed the trial court's judgment that denied part of her exception, granting the writ application would have resulted in sustaining the exception in its entirety.

**Cochran v. Forman**, 20-01400 (La. 3/9/21), 312 So.3d 263.

The district court rendered a custody judgment against the father, upon whom service was attempted under the UCCJEA but who did not accept the



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service attempts. The court of appeal reversed, finding that the trial court could not render judgment against a person who had not been served. The Supreme Court reversed the appellate court, finding that, under the UCCJEA, a defendant was entitled only to notice being given in a manner reasonably calculated to provide actual notice. The Supreme Court distinguished between the Louisiana Long Arm Statute and the service requirement under the UCCJEA, and stated that the UCCJEA did not require that service be made in accordance with the Louisiana Long Arm Statute.

**Randazza v. Giacona**, 20-0439 (La. App. 5 Cir. 3/24/21), \_\_\_So.3d\_\_\_, 2021 WL 1114169.

The parties' initial consent judgment provided that they would have joint custody with equal shared physical time with their minor child; and neither was named domiciliary parent. However, the judgment stated that Ms. Randazza "shall be in charge of religious and educational decisions for the child." The trial court ruled that the child should attend the school selected by Ms. Randazza. Although there was no domiciliary parent named in the consent judgment granting them joint custody, because they had agreed that she would be in charge of educational decisions, the court affirmed her authority to choose the school, after

the parties had consulted. The court analyzed that provision to the domiciliary parent designation. Moreover, the burden was on Mr. Giacona to show that her decision was not in the child's best interest because the judgment gave her the authority to make the decision.

**Morgan v. Foster**, 20-0363 (La. App. 5 Cir. 4/7/21), 2021 WL 1287694.

The parties were never married but had a daughter together, or so they believed. After reaching a consent judgment declaring Mr. Morgan to be the father, establishing joint custody and a physical custody schedule, Ms. Foster received DNA results showing that Mr. Morgan was not the child's biological father. She, therefore, filed a "Motion to Vacate" the consent judgment, claiming that, since Mr. Morgan was not the child's biological father, any parental rights he had should be terminated, and she should be granted sole custody. The trial court denied his exceptions and granted her motion to vacate the consent judgment.

The court of appeal first noted that the Code of Civil Procedure did not recognize a motion to vacate a judgment. It determined that the motion had to be interpreted based on its substance and the relief sought and decided her motion should be treated as a motion to rescind the consent judgment, and a motion to

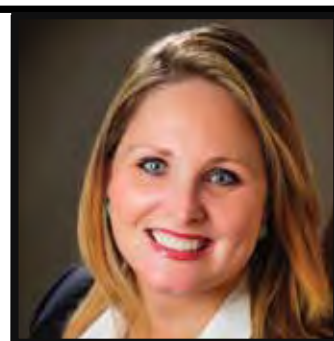
modify or terminate the joint-custody agreement. It first found that the consent judgment was not a legally recognized acknowledgment of paternity. Further, because Mr. Morgan had never filed a petition to establish paternity, the issue of his paternity had never been adjudicated as required by La. Civ.C. art. 198. It thus affirmed the trial court's judgment nullifying that portion of the consent judgment that established Mr. Morgan's paternity.

Regarding that portion of the consent judgment establishing joint custody and a physical custody schedule, the court found that there was nothing inappropriate regarding a stipulated joint custody agreement between a parent and a non-parent, and the fact that he was not the child's biological father was not grounds to vacate the consent judgment regarding custody. However, the court then addressed whether the agreement could be vitiated for error of consent as both parties at the time of entering the judgment believed that Mr. Morgan was the biological father. The court noted that it was not clear from the testimony that Mr. Morgan would not have entered into the consent agreement even if he had known he was not the father, as he had acted as the father in caring for and parenting the child. Moreover, there was also an absence of evidence of what Ms. Foster knew or should have known and what

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she would or would not have done had she known at the time of the judgment that Mr. Morgan was not the biological father. Thus, the court of appeal found that the district court erred in rescinding the consent judgment as it related to the joint custody arrangement. Moreover, the court could not modify that arrangement without taking evidence as to a change of circumstances and the best interest of the child, which did not occur.

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## 1st Circuit Holds that Unlicensed Contractor Is Not Entitled to Lien Rights Under the Private Works Act

*Ilgen Constr., LLC v. Raw Materials, LLC*, 20-0862 (La. App. 1 Cir. 4/16/21), 2021 WL 1438726.

Ilgen Construction, LLC (Ilgen) entered into an oral contract with Raw Developments, LLC (RML), an unlicensed contractor, for RML to perform dirt work on two tracts of land in Livingston Parish (the Project). Prior to the work being completed, Ilgen terminated RML from the Project. Subsequently, RML issued invoices to Ilgen for the work performed on the properties. When Ilgen refused to pay, RML filed two liens in the mortgage records of Livingston Parish as well as a notice of lis pendens. After counsel for Ilgen sent two 10-day demand letters requesting cancellation of the liens and lis

pendens, Ilgen filed a writ of mandamus against RML and the Clerk of Court for Livingston Parish.

At trial, the court found in favor of Ilgen and ordered that the liens and lis pendens be removed and awarded damages as well as attorney’s fees against RML. Ultimately, the trial court, in its written reasons, concluded that “RML’s failure to file a notice of contract in the mortgage records was ‘fatal’ to RML’s claim” and further held that the liens were extinguished as a result of RML’s failure to file suit within one year of filing the liens.

RML appealed, arguing that it was a subcontractor on the Project and, as such, it was not required to follow the Private Works Act requirement that provides that a notice of contract must be filed when the price of the contract between the owner and general contractor exceeds \$25,000. The Louisiana 1st Circuit Court of Appeal explained that it was unnecessary for it to reach the question of whether RML was a general contractor or subcontractor because the liens were “fatally defective due to the fact that RML was not a licensed contractor in Louisiana.” The court first held that because RML was unlicensed, the oral contract between RML and Ilgen was an absolute nullity. The court of appeal went on to explain that the provisions of the Private Works Act “demonstrate that the liens granted contractors and subcontractors under the PWA are to secure debts or obligations arising from contracts.” As such, the court held “that in the absence of a valid and enforceable contract, a contractor or subcontractor cannot assert a valid lien,” and because the oral contract was an absolute nullity, RML’s liens were invalid. Thus, because there was no valid contract between RML and Ilgen, RML could have no lien rights under the Private Works Act.

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## U.S. Supreme Court

*Servtronics, Inc. v. Rolls-Royce PLC*, No. 20-794 (March 22, 2021), 2021 WL 1072280 (*granting writ of cert.*).

The U.S. Supreme Court has granted certiorari and agreed to hear the question of whether federal courts may order discovery pursuant to 28 U.S.C. § 1782(a) for use in a foreign private commercial arbitration. Section 1782(a) provides that a district court may issue an order to produce “testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal . . . .” The case involves an arbitration between Servtronics and Rolls-Royce in the United Kingdom. Servtronics filed a petition in U.S. federal court invoking Section 1782(a) and seeking discovery to assist in the prosecution of its arbitration. The district court denied its petition, and the 7th Circuit affirmed, holding that Section 1782 cannot be used to assist private commercial arbitrations.

Servtronics sought certiorari with the U.S. Supreme Court in part to resolve a Circuit split between the 4th, 6th and 8th Circuits, which have held that Section 1782 may be used for discovery in private commercial arbitrations, and the 2nd, 5th and 7th Circuits, which have

ruled that the statute may not be used to aid in private commercial arbitrations.

## U.S. Court of International Trade

*Primesource Bldg. Prods., Inc. v. United States*, \_\_\_ F.Supp.3d \_\_\_, (Ct. Int’l Trade April 5, 2021), 2021 WL 1248956.

The U.S. Court of International Trade invalidated Presidential Proclamation 9980 made by President Trump imposing 25% import tariffs on certain steel and aluminum derivative products. The proclamation was issued as a proposed continuation of earlier tariffs imposed on different steel and aluminum products. Primesource challenged the proclamation asserting numerous claims, *inter alia*, that the proclamation was issued beyond the 105-day statutory time limit set forth in the Section 232 of the Trade Expansion Act of 1962, 19 U.S.C. § 1862. The court concluded that the proclamation was void *ab initio* because it was issued outside of the congressionally delegated statutory time frame. As a result, Primesource is entitled to have all its import entries impacted by Proclamation 9980 refunded, whether the entries were liquidated or unliquidated.

—Edward T. Hayes

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## 5th Circuit Rewrites Standard for Certification of FLSA Collective Actions

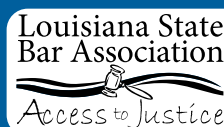
*Swales v. KLLM Transp. Servs., L.L.C.*, 985 F.3d 430 (5 Cir. 2021).

In *Swales*, a group of truck drivers who had contracted to work for KLLM Transport Services, L.L.C. (KLLM), a trucking company, filed suit in a Mississippi federal district court, asserting violations of the Fair Labor Standards Act’s (FLSA) minimum-wage requirements. *Id.* at 433-34. The truck drivers sought to pursue their claims against KLLM as a collective action pursuant to Section 216(b) of the FLSA, a provision that allows any employee to file suit in federal court on behalf of himself “and other employees similarly situated” to recover compensation owed by their employer. 29 U.S.C. § 216(b).

The district court authorized preliminary discovery for the purpose of determining whether to conditionally certify the case as a collective action and to facilitate the issuance of court-approved notice to the potential opt-in plaintiffs, in accordance with the two-step procedure for certification of collective actions first established in *Lusardi v. Xerox Corp.*, 122 F.R.D. 463 (D.N.J. 1988). *Id.* at 438.



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### The Two-Step *Lusardi* Approach

The first step of *Lusardi*, which is often called the “conditional certification” stage, requires the court to make a preliminary determination of whether there are other employees who are similar enough to the named plaintiff that they should receive notice of the lawsuit. The court typically makes this determination at the outset of the litigation based solely on the allegations of the plaintiff’s complaint and any affidavits that have been submitted. Because there is very little evidence available at this stage of the proceedings, conditional certification motions are normally subject to a lenient standard that is easily satisfied in most cases.

If the court rules in the employees’ favor, the case is then “conditionally certified” as a collective action, and other potential claimants will be given notice of the lawsuit and an opportunity to join by filing a signed consent form. Unlike in traditional class actions under Rule 23, only employees who have filed a written notice of consent to join the collective action are parties to the lawsuit who are bound by the court’s rulings. *See* 29 U.S.C. § 216(b) (“No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought.”).

The second step of the *Lusardi* approach, normally referred to as the “decertification” stage, occurs once the opt-in period has expired and discovery is complete. At the decertification stage of *Lusardi*, the court must make a final determination of whether the named plaintiff and the various opt-in plaintiffs are sufficiently similar to allow their claims to be tried on a collective basis. In contrast to the conditional certification stage, the court applies a much stricter standard when performing the “similarly situated” analysis at the decertification stage.

If the court finds that the claimants are not similarly situated, it will decertify the collective. Conversely, if the court finds that the claimants are similarly situated, it allows the named plaintiff to proceed to trial, both for himself and as a representative of the other plaintiffs who have opted into the case.

### The *Swales* Court’s Approach to FLSA Certification

Following the close of discovery, the truck drivers in *Swales* moved for conditional certification, which KLLM opposed. The court issued a written opinion granting the plaintiffs’ motion for conditional certification. At the same time, however, the district court certified its decision for interlocutory appeal to the 5th Circuit, noting that “[f]ew areas of the law are less settled than the test for determining whether a collective action should be certified under § 216(b).” *Swales*, 985 F.3d at 438.

The 5th Circuit expressly rejected *Lusardi*’s two-step certification procedure, finding it inconsistent with both the text of the FLSA as well as Supreme Court precedent interpreting Section 216(b). As the 5th Circuit noted, the term “conditional certification” appears nowhere in the text of the FLSA, nor Section 216(b), in particular.

One of the biggest problems with *Lusardi*, the 5th Circuit observed, is that

it provides little to no guidance about how district courts should proceed in situations where significant discovery has taken place before conditional certification. The *Swales* panel found that this had created a confusing mix of approaches among district courts, which may discourage district courts from considering evidence showing dissimilarities between the named plaintiff and potential opt-ins until the decertification stage.

To illustrate, the 5th Circuit pointed to the conditional certification ruling from the proceedings before the district court below, which had applied what it dubbed a “Goldilocks version of *Lusardi*,” *i.e.*, not too lenient and not too strict. In applying its makeshift standard, the district court had refused to consider evidence submitted by KLLM highlighting the “highly individualized” nature of the misclassification analysis governing the merits of the truck drivers’ claims. The district court believed that such evidence could be considered only at the decertification stage.

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Rather than blindly adhering to *Lusardi*, the 5th Circuit held that district courts “must rigorously scrutinize the realm of ‘similarly situated’ workers, and must do so from the outset of the case, not after a lenient, step-one ‘conditional certification.’” *Id.* at 434. The 5th Circuit further instructed district courts to “identify at the earliest possible time what facts and legal considerations will be material to determining whether a group of ‘employees’ is ‘similarly situated’” and then to “authorize preliminary discovery accordingly.” *Id.* at 441. This, the appellate court reasoned, is the only way to ensure that appropriate putative claimants receive notice of the lawsuit while avoiding stirring up unwarranted litigation from individuals who are ultimately ineligible to participate in the collective.

Because it was articulating these standards for the first time, the 5th Circuit vacated the district court’s conditional certification ruling and remanded the case for further proceedings consistent with the principles announced in its opinion.

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## Landowner Not Entitled to Disgorgement of Defendant’s Profits as Relief for Trespassing Pipeline

In *Mary v. QEP Energy Co.*, Civ. Action No. 13-2195 (W.D. La. 3/22/21), 2021 WL 1096593, the plaintiffs sought a disgorgement of the defendant’s profits associated with “misplaced pipelines” that trespassed on the plaintiffs’ land by straying — apparently, inadvertently — outside the boundaries of the defendant’s pipeline servitudes. The district court held that the plaintiffs were not entitled to such relief.

In 2006, Cynthia and Paul Mary granted oil and gas leases to Whitmar Exploration Co., which later assigned those rights to QEP Energy Co. In 2011, the Marys granted a servitude (the Pedro Servitude) to QEP, allowing QEP to in-

stall pipelines across the Marys’ property to serve the “Pedro Wells” on neighboring property. QEP constructed a gas pipeline and a saltwater pipeline, but the gas pipeline strayed 31 feet outside the boundaries designated for the Pedro Servitude, and the saltwater pipeline strayed about 15 feet outside the boundaries.

After discovering that the pipelines ran outside the servitude boundaries, the Marys sued, seeking a disgorgement of any profits that QEP earned from oil and gas operations that utilized the pipelines. The plaintiffs relied in part on Louisiana’s law of accession, which provides that the owner of a thing generally owns “everything that it produces,” including “fruits.” La. Civ.C. art. 482. For purposes of accession, “[f]ruits are things that are produced by or derived from another thing without diminution of its substance.” La. Civ.C. art. 551. There are two types of fruits. First, *natural fruits* “are products of the earth or of animals.” *Id.* Second, *civil fruits* are “revenues derived from a thing by operation of law or by reason of a juridical act, such as rentals, interest, and certain corporate distributions.” *Id.*

If a person possesses land without permission of the landowner, and this possessor collects fruits from the land,

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the landowner may or may not be entitled to recover the fruits, depending on whether the possessor was in good faith or bad faith. Civil Code article 486 provides that a good faith possessor “acquires the ownership of fruits he has gathered,” and the landowner is not entitled to recover the fruits or their value. On the other hand, article 486 states that a landowner is entitled to recover the fruits, or their value, gathered by a bad-faith possessor, subject to the possessor’s claim for reimbursement of expenses.

For purposes of accession, “a possessor is in good faith when he possesses by virtue of an act translative of ownership and does not know of any defects in his ownership.” La. Civ.C. art. 487. Here, the Marys asserted that QEP was a bad-faith possessor because it did not have an act translative of ownership for the portion of the Marys’ land outside the Pedro Servitude.

The federal district court granted summary judgment for QEP and rejected the Marys’ claim for disgorgement. The court relied on Civil Code article 670, which applies when “a landowner constructs in good faith a building that encroaches on an adjacent estate,” and the owner of the adjacent estate does not complain until after the building is substantially complete. The article states that “[t]he owner of the building acquires a predial servitude on the land occupied by the building upon payment of compensation for the value of the servitude taken and for any other damage that the neighbor has suffered.” The U.S. 5th Circuit reversed and remanded, holding that article 670 did not apply.

On remand, the district court again concluded that the Marys were not entitled to disgorgement based on accession. The Marys relied on the accession articles dealing with fruits derived from a plaintiff’s land. However, QEP derived its profits from natural gas, which is a product, not a fruit. La. Civ.C. art. 488. Perhaps more importantly, given that a landowner’s right to “reclaim” products removed from the land by a possessor is broader than the landowner’s right to recover fruits removed by a possessor, *id.*, the natural gas on which QEP earned

a profit was not derived from the Marys’ land. Rather, the gas was derived from the neighboring land. The natural gas merely passed through a pipeline that trespassed on the Marys’ land. Further, the Marys failed to show that QEP earned any additional profits by placing a portion of the two pipelines outside the servitude boundaries. Accordingly, the court held that the Marys were not entitled to a disgorgement of profits based on the law of accession.

The Marys also asserted a trespass claim. The court noted that, under Louisiana tort law, a plaintiff who successfully brings a tort claim is entitled to a damages award that will put the plaintiff “in the position he would have occupied had the injury not occurred.” Such a plaintiff has no claim for disgorgement of a defendant’s profits. Finally, although the Marys did not explicitly assert a claim for breach of contract, portions of their pleadings suggested that QEP breached the servitude agree-

ment. The district court noted, however, that disgorgement of profits is not available as a remedy for breach of contract. Accordingly, the court granted a partial summary judgment that the Marys have no claim for a disgorgement of profits.

The Marys’ appeal of that partial summary judgment to the 5th Circuit is pending. *Mary v. QEP Energy Co.*, Case No. 21-30195, filed 4/13/21.

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## Service of Process

*Brown v. Chesson*, 20-0730, 2021 WL 1115359 (La. 3/24/21), \_\_\_So.3d\_\_\_.

Brown filed a complaint with the Division of Administration against Dr. Chesson, a state employee. After panel proceedings, she filed a lawsuit, naming only Chesson as a defendant and requesting service on Chesson at his office.

Chesson filed exceptions of insufficiency of citation and service of process, claiming that her suit against a state-employed healthcare provider must be served on specific entities (the Head of the Department for the LSU Board of Supervisors, the Office of Risk Management and the Attorney General) pursuant to La. R.S. 13:5107 and La. R.S. 39:1538. The trial court denied the exceptions, but the court of appeal reversed, ruling that “at least one of the requisite entities must be served” and that the failure to timely serve warranted dismissal.

The Louisiana Supreme Court granted Brown’s writ application and began by acknowledging that La. R.S. 13:5107(D) (1) requires timely service of a petition

“which initially names the state, a state agency, or political subdivision or any officer or employee thereof as a party,” adding that for claims against any of these parties because of state-employee negligence, “process shall be served upon the head of the department concerned, the office of risk management, and the attorney general, as well as any others required by La. R.S. 13:5107.” However, Brown argued that her claim was against only Chesson; that La. R.S. 13:5107(D), which sets forth the time period for requesting service, was the only part of the statute that references state employees; and that the service requirements of La. R.S. 13:5107(A) do not apply. Thus, contended Brown, as La. R.S. 13:5107(D) says nothing about the method of service on a state employee, her request for service pursuant to La. C.C.P. arts. 1231 and 1232 was appropriate. Chesson countered that any damages awarded against him must be paid by the state, thus triggering the requirements of La. R.S. 13:5107 and La. R.S. 39:1538.

The court cited its decision in *Whitley v. State*, 11-0040 (La. 7/1/11), 66 So.3d 470, 480-81, that mandated the penalty of dismissal prescribed by La. R.S. 13:5107(D) for failing to request service within 90 days “is limited to instances where a *named defendant* is not timely served,” thus interpreting the statute as written and declining “to judicially impose requirements not mandated by the

legislature.”

It was undisputed that Chesson was the sole named defendant and that Brown timely requested personal service on him, leaving her to put forth that her service was sufficient, because no specific method of service is required by La. R.S. 13:5107(D). While that statute requires a timely request for service, “it does not specify the manner of making such a request or when a request is deemed to be made.” Given that a plaintiff may name an individual state-employed physician as a defendant, “it is axiomatic that service may be requested on this individual pursuant to La. C.C.P. art. 1232.” Because the suit did not make any “[c]laims against the state or any of its agencies, the service requirements of La. R.S. 39:1538 are not applicable.” The sustainment of the defendant’s exceptions was reversed, and the case was remanded to the trial court.

## Cumulative Prejudice Results in Remand

*Lovecchio v. Romain*, 19-0779, 2020 WL 1465943 (La. App. 4 Cir. 3/25/20), \_\_\_So.3d\_\_\_, writ denied, 20-00458 (La. 9/8/20), 301 So.3d 30.

Four experts testified for each side during a trial involving an alleged incorrect order and/or filling of a medication prescription. In addition to the experts, a

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defendant (Rosenthal, a first-year intern at the time of the alleged malpractice) was called by the defense. The plaintiff objected, alleging that “it would be confusing to the jury to have a now experienced Dr. Rosenthal validate his past actions under the guise of his own expert testimony.” The trial court did not allow Rosenthal to testify as an expert, limiting him to factual testimony. The appellate court reviewed Rosenthal’s proffered expert testimony, determined it of “relatively low probative value” and cumulative of opinions given by three other experts, and excluded the testimony “because of the danger of potential confusion to the jury.” The trial court also declined to qualify a second defense expert, a pharmacologist who “did not demonstrate ‘the requisite knowledge, experience, and training with the drug amiodarone.’” The appellate court reversed this ruling, noting any deficiencies in the pharmacologist’s history and training about a particular drug “goes towards the weight of their opinion and does not merit the outright exclusion of its consideration by the factfinder.”

The defendants also argued that the trial court committed error in relying on a 1977 case in a charge to the jury that “a physician has a duty not to prescribe a higher dosage of a dangerous drug than is reasonably necessary to control the patient’s condition under the circumstances.” The appellate court agreed with the defendants that the 1977 case predated the enactment of La. R.S. 9:2794. The court concluded that, among other things, the charge “also employs conclusory language which implies that amiodarone is, inherently, a ‘dangerous drug.’”

The appellate court remanded the case for a new trial, finding that the trial court’s errors caused cumulative prejudice to the defendants and that the evidence was “so nearly equal” on both sides that it was unable to “fairly find a preponderance of evidence from a cold record.”

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## Declaratory Judgment Dismissed for Lack of Standing and No Justiciable Controversy

*Purpera v. Robinson*, 20-0815 (La. App. 1 Cir. 2/19/21), \_\_\_So.3d\_\_\_, 2021 WL 650820.

Daryl G. Purpera, in his official capacity as Louisiana Legislative Auditor (LLA), sought a declaratory judgment on the interpretation of La. R.S. 47:1508(B) (2), an exception to the privilege granted against the absolute prohibition of disclosure and grant of confidentiality to the Department of Revenue’s (LDR) re-

cords. The suit related to the LLA’s audit of the Louisiana Department of Health and the LLA’s desire to obtain from the LDR taxpayer information related to 2017 Medicaid recipients.

The LDR filed exceptions of prematurity, lack of subject matter jurisdiction, no cause of action and lack of standing in response to the LLA’s suit. The LDR asserted the LLA failed to follow the requirements of La. R.S. 24:513(M)(1), which requires a joint subpoena be issued to the LDR by the LLA and the chair of the Legislative Audit Advisory Council to compel the production of any books, documents, records, papers, films, tapes and electronic data processing media not provided. The district court sustained the LDR’s exceptions and dismissed the LLA’s suit. Specifically, the district court ruled that it declined to exercise jurisdiction as no justiciable controversy exists until the LLA followed the administrative remedy outlined in La. R.S. 24:513(M) (1). The LLA appealed to the 1st Circuit Court of Appeal.

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The 1st Circuit affirmed the district court ruling. It agreed with the LDR that the LLA lacked standing to bring the action and that there was no justiciable controversy between the parties. The 1st Circuit reasoned that the LLA sending one request for information and the LDR failing to respond does not rise to the level of an actual and substantial dispute. The 1st Circuit held that if the LLA were to obtain a legislative subpoena for the documents as required by La. R.S. 24:513(M)(1) and the LDR refused to honor the subpoena because of its concerns regarding the confidentiality

and privileges regarding tax information, then a real and actual dispute would exist.

In addition, the 1st Circuit held the LDR had no duty to provide the documents and the LLA had no right to the documents, as the LDR was not the auditee. Based on its prior precedent, the 1st Circuit held the LLA must comply with the statutory administrative subpoena remedy prior to initiating an action in district court; and the auditee, not the LLA, has a right to seek a ruling from the district court on whether the documents must be produced. The 1st Circuit held

there was no justiciable controversy and the trial court did not abuse its discretion in determining LLA did not have standing to bring the declaratory action. The issue in the case was found to be purely academic and theoretical as the LDR was not the auditee.

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## BTA Examines the “Purpose” Requirement for the Further-Processing Exclusion for Sales-and-Use Tax

The further-processing exclusion from Louisiana sales-and-use tax uses a jurisprudentially created, now-codified, three-pronged test for determining whether the exclusion applies to a particular purpose for a particular process. *See*, La. Acts No. 3 (2016 2nd Ex. Sess.). The application of this test to a company’s processing activities is very fact-specific, and most cases addressing the further-processing exclusion become “battles of the experts.” A recent Board of Tax Appeals (BTA) decision upheld the exclusion because the taxpayer demonstrated that one of the purposes behind the purchase of the material was to further process it into the end product.

In 2016, the Legislature enacted La. R.S. 47:301(10)(c)(i)(aa) through (ccc), which codifies the jurisprudential three-part test for determining whether the purchase of a material for further processing is eligible for the exclusion: (1) the material must be recognizable and identifiable in the end product; (2) the material must be beneficial to the end product; and (3) the material must be purchased for the purpose of further processing into the end product, even if it is not the sole or primary purpose.

In *Noranda Intermediate Holding Corp. v. St. James Parish School Board*, Docket No. L00329 (La. Bd. Tax App. 3-3-21), the BTA addressed the application of the “purpose” requirement regarding a material that served both as a processing aid and as a raw material for further processing into the end-product. *Noranda* purchased lime for further processing in its alumina manufacturing process. Lime contributes small amounts of calcium and oxygen to the alumina end product, *i.e.*, smelter grade alumina (SGA).

The BTA found that, during the production process, calcium from the lime was trapped between alumina molecules and became part of the SGA. The court did not consider the amount or concentration of calcium in the SGA to be important because only “a small but regular

amount of calcium in the SGA end product is desirable.” Further, the BTA found that *Noranda* had an incentive to make its SGA meet its customer’s needs by regulating its calcium content, and lime was the only reliable source of calcium in the process.

With respect to oxygen from lime, the BTA found that one of the reasons *Noranda* purchased lime was for use in a causticization reaction, which regenerates spent caustic by creating new caustic molecules. Caustic is a recognized essential raw material in the process of making alumina. Because *Noranda* knew of the causticization reaction when it purchased the lime and intended for the oxygen from lime to become a part of the caustic soda and ultimately part of the SGA, this was found to satisfy the “purpose” requirement

of the further-processing exclusion test.

The BTA’s holding demonstrates that no matter how small the amount of a material in the end product, the further-processing-exclusion test will still be met if the contribution is beneficial to the end product and the product was purchased for that purpose.


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# 7 Rules for Pursuing Professional Fulfillment

By Graham H. Ryan

Reasonable minds may differ on the career paths, milestones, or achievements that lead to a fulfilling professional career. For some lawyers, it may be obtaining a hard-earned verdict or acquittal, making partner, or landing a job that aligns with their interests and skillset. For others, it may be advocating for social change, shaping public policy, or helping craft solutions to complex problems. Naturally, any path toward fulfillment may evolve along with a lawyer's experience and interests. As the new chair of the Young Lawyers Division (the under-39 crowd), I have had the pleasure of speaking with many young lawyers who are forging their own paths toward professional fulfillment — some right out of law school, others in the midst of an early- or mid-career change, and some a decade or more into gainful employment. Two recurring themes in those conversations have left an impression on me.

### Young Lawyer Ruminations

First, many young lawyers revealed they were initially drawn toward a measure of success that was not their own — some benchmark, attractive from a distance, that lost its luster as it drew near because it ultimately did not align with their true passions. Perhaps it was

the result of focusing on an unrewarding practice area, striving for a hollow job title, or enduring an unsupportive work environment. My impression is that many young lawyers, at some point, are willing to acknowledge that a meaningful career grounded in authentic interests is more fulfilling than fleeting victories.

Second, young lawyers seem increasingly open to share their encounters with daily stress, anxiety, and even depression; their battle with “imposter syndrome” marked by self-doubt. Many will recount vivid stories of paralysis in the face of stress. Of course, a degree of stress comes with the territory — a by-product of stepping outside one's comfort zone and, more constructively, a precursor to growth. I gather that young lawyers are not blind to the association of stress to recurrent self-growth and development. Quite the opposite: they are eager to embrace growth in a direction that aligns with their sense of what is professionally fulfilling.

These two young lawyer intuitions — to define professional fulfillment for oneself and to embrace an open-to-



Graham H. Ryan

growth mindset in its pursuit — command optimism for this up-and-coming generation of lawyers and its impact on the profession.

### The Young Lawyer Journey

These young lawyer attributes are also reminiscent, to some degree, of the “hero's journey” — the classic tale of growth and transformation in overcoming adversity. All told, the hero's journey is actually a multi-step narrative pattern for a story's protagonist that begins with an initial call toward something meaningful; a mentor who oversees trials and failures; internal conflict and self-growth; and an ultimate inflection point in which the protagonist embraces a challenge that, when overcome, transforms and fulfills. But suffice it to say the journey is a paradigm for embracing challenge as a means of fulfillment.

Putting the “hero” misnomer aside, the journey of authentic growth and self-transformation bears semblance, at least in part, to the young lawyer journey. Young lawyers may be initially called to a career in law by ideals of advancing justice, pursuing truth, intellectual curiosity, helping others, or developing a particular skillset. They may feel dejected or setback by employment rejection, overwhelming law school debt, impostor syndrome, feeling like friends

and life goals are displaced by deadlines, or by not seeing the fruits of their labor. They may then connect with a mentor — a law professor, partner, colleague, or member of the Bar. Feeling supported, they may begin to embrace risk and, in turn, professional development. Through embracing authentic and hard-earned growth, they achieve a sense of fulfillment when they finally hang the shingle, approach the podium with confidence, chart a case strategy and see it through, take a pro bono case, or commit to a path that weds their work with their passions. For these victories of young lawyer self-growth and fulfillment, the only touchstone that matters is their own.

### 7 Rules for Pursuing Professional Fulfillment

It is imperative that we, as a profession, maintain an environment that fosters a sense of professional fulfillment within young lawyers. But in a profession marked by the tenth of an hour and a nose-to-the-grindstone work ethic, it is rare to step back and assess one's own journey toward professional fulfillment, much less our efforts in supporting others along their own. I invite you to do both.

1. Define professional fulfillment for yourself — no one else can.
2. Establish a mentor or other supporting relationships grounded in mutual respect.

3. Live one step outside of your comfort zone to facilitate continual development.

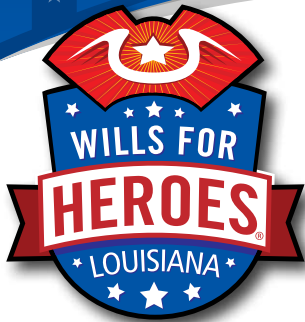
4. Acknowledge momentary stress as a precursor to growth and redemption.

5. Recognize rare inflection points along your path — openings for substantial progress.

6. Stay humble — no one has it figured out.

7. Know the journey is shared and support others along their journey.

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# 2021-2022 Louisiana State Bar Association Young Lawyers Division Officers and Council

## YLD Officers 2021-22

### Graham H. Ryan Chair

Graham H. Ryan is a partner in the New Orleans office of Jones Walker LLP, where he litigates complex business disputes in federal and state courts. He graduated, *summa cum laude*, in finance from Louisiana State University, received his law degree from LSU Paul M. Hebert Law Center (*Louisiana Law Review*) and is an alumnus of the Harvard Negotiation Institute's dispute resolution program.

Graham has served on the Louisiana State Bar Association (LSBA) Young Lawyers Division (YLD) Council as 2020-21 chair-elect, 2019-20 secretary and as the delegate to the American Bar Association (ABA) House of Delegates. He currently serves on the LSBA's Legislation Committee and Access to Justice Committee. He was a member of the 2014-15 Leadership LSBA Class. He received the LSBA YLD Chair's Award in 2016 and 2018 and was named as a 2017 Louisiana Bar Foundation Fellow for his role in leading various access to justice initiatives. He has served as a council member for the Louisiana State Law Institute, the ABA YLD, the New Orleans Association of Defense Counsel and the Jefferson Bar Association YLD.

He was named to the 2020 Leadership in Law Class by *New Orleans CityBusiness* and to the 2018 "40 Under 40" Class by *Gambit Weekly*. He was honored as a "Top 40 Young Lawyer" nationally by the ABA in 2018.

In his community, Graham is a board member of Lakeview Civic and a commissioner of the Lakeview Crime Prevention District. He is a former chair of HandsOn New Orleans, a nonprofit volunteer center founded after Hurricane Katrina that engaged more than 60,000 volunteers to rebuild south Louisiana. He also is an attorney volunteer and board member of the Pro Bono Project and several other community organizations.

Graham and his wife Erin are the parents of two sons.  
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### Danielle L. Borel Chair-Elect

Danielle L. Borel is a partner in the Baton Rouge of-



Graham H. Ryan



Danielle L. Borel



Senae D. Hall

fice of Breazeale, Sachse & Wilson, LLP. She received a BS degree, *magna cum laude*, in 2011 from Louisiana State University and her JD degree, *magna cum laude*, in 2014 from LSU Paul M. Hebert Law Center (*Louisiana Law Review*, 2012-14; Order of the Coif). She was admitted to practice in Louisiana in 2014.

Dani has served on the Louisiana State Bar Association's (LSBA) Young Lawyers Division (YLD) Council as the 2020-21 secretary and as the American Bar Association's (ABA) Young Lawyers Division representative. She received the LSBA YLD's Bat P. Sullivan, Jr. Chair's Award in 2019. She is a leader in the ABA's Young Lawyers Division and the ABA Health Law Section. She was recognized as an Emerging Young Lawyer in Healthcare by the ABA Health Law Section in 2019 and as an ABA Young Lawyers Division Star of the Quarter in spring and fall 2017 and fall 2019. She also is a member of the Louisiana Hospital Association and has participated in the Baton Rouge Bar Association's Holiday Star Program.

In her community, she is a member of the board of directors and chairs the advisory board for Lighthouse Louisiana. She was twice recognized with the Lighthouse Louisiana Door Knocker Award for her service. She also volunteers for PulseBR (American Heart Association) and as a judge for the LSU Law Center.

Dani and her husband, Nathan Judice, have been married for 10 years and recently welcomed their first child.  
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### Senae D. Hall Secretary

Senae D. Hall is an assistant district attorney in the Caddo Parish District Attorney's Office in Shreveport. She also is the Human Trafficking Victims Diversion coordinator. She received a BA degree in mass communications in 2008 from Dillard University and her JD degree in 2011 from Southern University Law Center. She was admitted to practice in Louisiana in 2011.

Senae has served as the at-large representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division Council. She was a member of the 2018-19 Leadership LSBA Class and a member of the Class Awards Committee. She also volunteered as a



mock trial competition judge from 2017-20.

Senae is a member of the Shreveport Bar Association, the Louisiana District Attorneys Association and the Harry V. Booth/Judge Henry A. Politz American Inn of Court. She is currently the Social Media chair for the Shreveport Bar Association's Young Lawyers Section.

She was recognized as the Teen Court Volunteer of the Year in 2018 and the Abounding Faith Temple Youth Leader Volunteer of the Year in 2017. She was featured as the February 2019 Member Spotlight by the Shreveport Bar Association Women's Division and was a 2019 panelist for Macy's Black History Month Historical Black Colleges and Universities Program. She was recognized as a 2021 "Top Attorney" by *SB Magazine* and was selected for the 2020-21 Dillard University's "40 Under 40" list.

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**Carrie LeBlanc Jones**  
**Immediate Past Chair**

Carrie LeBlanc Jones is the chief legal officer and general counsel for the Louisiana State Board of Nursing (LSBN), where she focuses on administrative and regulatory law. She has successfully represented the LSBN in state and federal court, served as prosecuting attorney in disciplinary matters, and advised board members and staff on a variety of legal issues. Prior to joining the LSBN, she was a partner at the law firm of Shows, Cali & Walsh, LLP. She received a BA degree in mass communication from Louisiana State University, her JD/BCL degree from LSU Paul M. Hebert Law Center and a MBA degree from Southeastern Louisiana University. She was admitted to practice in Louisiana in 2008.

Carrie has served as chair, chair-elect, secretary and District 5 representative on the Louisiana State Bar Association's (LSBA) Young Lawyers Division (YLD) Council. She helped plan the inaugural Louisiana Young Lawyers Conference, co-chaired the Richard N. Ware High School Mock Trial Competition, served as the Professional Development Seminar coordinator, chaired the Bridging the Gap Committee and served on the Awards Committee. She received the LSBA YLD Chair's Award in 2016 in recognition of her ongoing commitment and service to the Richard N. Ware High School Mock Trial Competition. She served as a member of the *Louisiana Bar Journal* Editorial Board and was a member of the 2013-14 Leadership LSBA Class.

Her commitment to the legal profession includes two terms on the Louisiana Attorney Disciplinary Board. After the Louisiana Supreme Court appointed her to a second term, she served as the board's chair in 2017, the youngest board member to hold this position. She is a member of the Baton Rouge Bar Association and serves on the Louisiana Bar Foundation's Capital Area Community Partnership Panel.



Carrie LeBlanc Jones



Collin R. Melancon



Kristen D. Amond

In her community, she is a parishioner of St. George Catholic Church. She also serves on the board of directors for Livingston Parish SADD. She and her husband, Aaron Jones, have been married for 10 years and have two children.

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**YLD Council 2021-22**

**Collin R. Melancon**  
**District One Representative**

Collin R. Melancon is a partner/owner of Mansfield, Melancon, Cranmer & Dick, LLC, in New Orleans. He received a bachelor's degree in international studies in 2011 from Louisiana State University and his JD degree in 2015 from Loyola University College of Law. He was admitted to practice in Louisiana in 2015.

Collin serves as the Louisiana State Bar Association (LSBA) Young Lawyers Division's representative on the Louisiana Judicial Council. He has been a speaker for several conferences and CLEs, including the LSBA Young Lawyers Conference, the Bridging the Gap CLE program and the LSBA Professionalism Orientations.

He is a member of the New Orleans Bar Association and the Louisiana Association for Justice. He served on the Planning Committee for the Pro Bono Project's Justice for All Ball in 2019. He was recognized as a *Louisiana Super Lawyer* "Rising Star" in 2020 and 2021.

While in law school, he was a member of the *Loyola Law Review* and was selected as a *Law Review* board member in his 3L year. He received the Spirit of St. Ignatius Award for Outstanding Law Graduate (highest award given to a graduating law student) at Loyola Law School. He also received the LSBA Civil Code Award at Loyola Law School for graduating first in his class in the civil law division.

Collin and his wife, Jillian Melancon, have been married for three years.

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**Kristen D. Amond**  
**District One Representative**

Kristen D. Amond is a founding member of Mills & Amond, LLP. She served as a clerk to Judge Susie Morgan of the U.S. District Court, Eastern District of Louisiana. In law school, she served as an intern for Judge Brian A. Jackson of the U.S. District Court, Middle District of Louisiana. She received a BS degree in management in 2010 from Tulane University and her JD/DCL degree, *magna cum laude*, in 2016 from Louisiana State

University Paul M. Hebert Law Center (editor-in-chief of the *Louisiana Law Review*).

Before attending law school, she taught second and third grades in New Orleans charter schools and has been an advocate for public education ever since.

Kristen has a special commitment to Louisiana's economic development, its culture, and, in particular, its underserved communities. As a member of the Eastern District of Louisiana's Civil Pro Bono Panel, she regularly volunteers her professional time to the representation of plaintiffs in civil rights cases.

She serves on the boards of the New Orleans Federal Bar Association Younger Lawyers Division and Emerging Philanthropists of New Orleans. She is a member of the New Orleans Regional Leadership Institute's Class of 2021 and an alumna of Council for a Better Louisiana's Leadership Louisiana program. She is currently an adjunct professor at Tulane University, teaching a class on the First Amendment and the media.

Kristen loves all things New Orleans and looks forward to traveling the world with her wife, Nancia Sterling.

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### **Rachal Cox Cassagne** **District Two Representative**

Rachal Cox Cassagne is an assistant United States attorney for the Eastern District of Louisiana. She received a BA degree in English in 2011 from Louisiana State University-Shreveport, a MA degree in literary studies in 2013 from Universiteit van Amsterdam and her JD degree, *magna cum laude*, in 2016 from Southern University Law Center. She was admitted to practice in Louisiana in 2016.

Rachal is a member of the Jefferson Parish Bar Association and the Federal Bar Association. She is an observer with the Louisiana State Law Institute for the Louisiana State Bar Association's Young Lawyers Division. She participated in Forum 35's John W. Barton, Sr. Community Leadership Program in 2018.

In her community, she attends St. Anthony Church in Gretna. Rachal and her husband, Craig Cassagne, Jr., have been married for two years.

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### **Rory V. Bellina** **District Two Representative**

Rory V. Bellina is an associate in the Metairie office of Chehardy, Sherman, Williams, Murray, Recile, Stakelum & Hayes, LLP. He received a BS degree in 2010 from Louisiana State University and his JD degree in 2013



**Rachal Cox  
Cassagne**



**Rory V. Bellina**



**Megan E. Réaux**



**Justin S. Brashear**

from Loyola University College of Law. He was admitted to practice in Louisiana in May 2014.

Rory is a member of the Louisiana State Bar Association's Health Law Section. He is a member of the American Health Law Association and the American Bar Association's Health Law Section. He was recognized by *New Orleans Magazine* as one of the "Top Lawyers" in 2021.

In his community, he is president of the St. Dominic School Board and vice president of the St. Dominic Fathers Club. He is a board member of the Lakeview Civic Improvement Association.

Rory and his wife Danielle have been married for 10 years and are the parents of three children.

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### **Megan E. Réaux** **District Three Representative**

Megan E. Réaux is an associate in the Lafayette firm of Hill & Beyer, APLC. She handles both plaintiff and defense litigation. She received a BA degree, *magna cum laude*, in English literature and Spanish in 2008 from the University of Louisiana-Lafayette and her JD/DCL degree in 2011 from Louisiana State University Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2011.

Megan is a member of the Louisiana State Bar Association's Insurance, Tort, Workers' Compensation and Admiralty Law Section. She is a frequent contributor to the *LA Free Legal Answers* online program.

She is a member of the Lafayette Bar Association and the Louisiana Association for Justice. In 2010, she received the Public Interest Law Society Fellowship for work with Hearts of Hope in Lafayette.

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### **Justin S. Brashear** **District Four Representative**

Justin S. Brashear is the founder of Brashear Law, LLC, in Lake Charles, where he focuses on plaintiff's personal injury litigation and first-party bad faith property damage litigation. He received a BS degree in political science in 2010 from Louisiana State University and his JD degree in 2013 from Southern University Law Center. He was admitted to practice in Louisiana in 2013 and in Texas in 2019. He is admitted in all Louisiana state courts; the U.S. District Courts for the Western, Middle and Eastern Districts of Louisiana; the State Bar of Texas; the U.S. District Court for the Eastern District of Texas; and the U.S. 5th Circuit Court of Appeals.

Justin was a member of the 2019-20 LSBA Leadership Class and currently serves on the Louisiana State Bar

Association's Outreach Committee.

He previously served as a board member for the Southwest Louisiana Young Lawyers Division. He is a member of the National Trial Lawyers Association, the Louisiana Association for Justice and the Southwest Louisiana Bar Association. He was recognized by the National Trial Lawyers as one of the "Top 40 Under 40" civil plaintiff trial lawyers.

Justin and his wife Autumn have been married for 13 years and are the parents of a daughter.

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### **Loren Shanklin Fleshman** **District Five Representative**

Loren Shanklin Fleshman is a partner in the Baton Rouge firm of Smith Shanklin Sosa, LLC. She received a BS degree in secondary education (concentration in history) in 2005 from Louisiana State University and her JD/GDCL in 2010 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2010.

Loren participated in the Louisiana State Bar Association's Young Lawyers Division (YLD) Symposium in 2016 and 2017. She is the 2018 recipient of the YLD's Outstanding Young Lawyer Award.

She is a former chair of the Baton Rouge Bar Association's (BRBA) Young Lawyers Section and, since 2019, has served as a director-at-large for the BRBA's board of directors. She is a member of the Louisiana Association for Justice. She received the Volunteers in Public School's Exceptional Volunteer Award in 2006 while she was a teacher and program coordinator of an after-school program. In 2010, she was recognized for volunteering more than 100 hours of pro bono services.

In her community, she is involved in the K.I.D.S. (Karing is Doing Something) Program and is a member of St. Aloysius Catholic Church.

Loren and her husband, David C. Fleshman, have been married for five years and are the parents of three children.

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Camille E. Walther is a financial advisor with The Walther-duPassage Group at Morgan Stanley in Mandeville. She received a BA degree in mass communications and public relations in 2013 from Louisiana State University and her JD/GDCL degree in 2016 from LSU Paul M. Hebert Law Center. She was admitted to practice in Louisiana in 2016.

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Loren Shanklin  
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Rotary Club's Feeding the Needy Program and Open Table: Relationships Transform Communities. She is a member of the Junior League of Greater Covington.

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### **Joshua J. Dara, Jr.** **District Six Representative**

Joshua J. Dara, Jr. is an associate in the Alexandria firm of Gold, Weems, Bruser, Sues & Rundell, APLC. He received a BS degree in finance in 2010 from Louisiana State University and a JD/GDCL degree in 2014 from LSU Paul M. Hebert Law Center. He was admitted to practice in Louisiana in 2014.

Josh is a member of the Crossroads American Inn of Court of Alexandria/Pineville, the Louisiana Association of Defense Counsel, the Defense Research Institute and the Alexandria Bar Association. He recently served as president of the Kiwanis Club of Pineville.

In law school, he was a member of the Christian Legal Society and the Black Law Students Association. He also received recognition for outstanding advocacy skills in LSU's NITA Trial Advocacy Program.

Josh and his wife, Aziza Dara, have been married for five years.

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### **Jessica L. Fitts** **District Seven Representative**

Jessica L. Fitts is a family law attorney with the Monroe firm of Cummins & Fitts, LLC. She focuses her practice primarily on divorce, child custody and child support. She received a bachelor's degree, *magna cum laude*, in psychology in 2015 from Louisiana Tech University and her JD degree and Certificate in Public Interest in 2018 from the University of Alabama School of Law. She was admitted to practice in Louisiana in 2018.

At Louisiana Tech, she was a member of Sigma Kappa Sorority, the Honors Program, Student Recruiters, the Tech Leadership Council and Student Government. She was a member of the Orientation Student Leaders and was recognized by "Who's Who of Louisiana Tech" in 2015. In law school, she was a member of the Bench and Bar Association, the National Trial Advocacy Team, the Public Interest Student Board and Raise the Bar student mentoring board.

Jessica resides in West Monroe with her husband, Greg Hawkins.

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**Elizabeth P. (Liza Beth) Grozinger**  
**District Eight Representative**

Elizabeth P. (Liza Beth) Grozinger is an assistant attorney general with the Louisiana Department of Justice and is based in the Shreveport office. She received a BS degree in psychology in 2005 from Louisiana State University and her JD degree in 2012 from Southern University Law Center. She was admitted to practice in Louisiana in 2013.

Liza Beth is a member of the Shreveport Bar Association, the Baton Rouge Bar Association and the Harry V. Booth/Judge Henry A. Politz American Inn of Court.

In her community, she is a member of the First United Methodist Church in Shreveport.

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**Justin A. Jack**  
**At-Large Representative**

Justin A. Jack is an assistant United States attorney for the U.S. Attorney's Office for the Middle District of Louisiana. He received his undergraduate degree in 2012 from Carleton College in Northfield, MN, and his JD degree in 2015 from Tulane University Law School. He was admitted to practice in Louisiana in 2015.

Prior to his current position, he was an associate with Adams and Reese, LLP. He also worked as a judicial law clerk for Chief Judge Ulysses Gene Thibodeaux, Louisiana 3rd Circuit Court of Appeal, and for Chief Magistrate Judge Karen Wells Roby, U.S. District Court for the Eastern District of Louisiana.

Justin is a member of the Louisiana State Bar Association's (LSBA) Diversity and Outreach committees. He was a member of the 2019-20 Leadership LSBA Class and is a member of the 2020-21 American Bar Association Young Lawyers Division Scholars Class.

He is a member of the American Bar Association, the Federal Bar Association, and the Baton Rouge and Greater New Orleans chapters of the Louis A. Martinet Legal Society, Inc.

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**Thomas C. (T.C.) Wicker IV**  
**ABA YLD Representative**

Thomas C. (T.C.) Wicker IV is an associate in the New Orleans office of Jones Walker LLP. He received a BA degree, *cum laude*, in English and government in 2012 from Georgetown University and his JD degree, *cum laude*, and certificate in civil law in 2017 from Tulane University Law School. He was admitted to practice in Louisiana in March 2018. He clerked for U.S. District Court Chief Judge Nannette Jolivet Brown, Eastern



**Elizabeth P.  
(Liza Beth)  
Grozinger**



**Justin A. Jack**



**Thomas C. (T.C.)  
Wicker IV**



**Megan S. Peterson**

District of Louisiana, before joining Jones Walker.

T.C. was a member of the 2019-20 Leadership LSBA Class. He is a member of the Jefferson Bar Association, the Federal Bar Association and the Louisiana Association of Criminal Defense Lawyers.

In his community, he is a member of the Georgetown Club of New Orleans and the ForeKids Foundation and is a Teach for America alumnus.

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**Megan S. Peterson**  
**Young Lawyer Member/ABA House of Delegates**

Megan S. Peterson is a partner at Simon, Peragine, Smith & Redfean, LLP, in New Orleans, where she represents local, regional and national clients in litigation and alternative dispute resolution. Although she handles a variety of civil litigation matters, her practice focuses on defense of clients in the retail, restaurant, hospitality, trucking and transportation industries. She is licensed in all state and federal courts in Louisiana and Mississippi.

Megan received her BA degree in political science and business administration from Louisiana State University. She earned her JD degree, *magna cum laude*, from Loyola University College of Law and was honored as a William L. Crowe, Sr. Scholar. While at Loyola, she served as print managing editor of the *Loyola Law Review* and participated in Moot Court. She also studied cultural property and arts law in Siena, Italy, with Tulane University Law School.

She is an active member of the Defense Research Institute, serving on the steering committees for both the Young Lawyers Division and the Retail and Hospitality Committee. She is also active in the American Bar Association. She is a former president of the Association for Women Attorneys in New Orleans and has consistently been selected as a *Louisiana Super Lawyers* "Rising Star" in civil litigation defense since 2014.

Megan and her husband, Matt McCluer, have been married for eight years and are the parents of one child.

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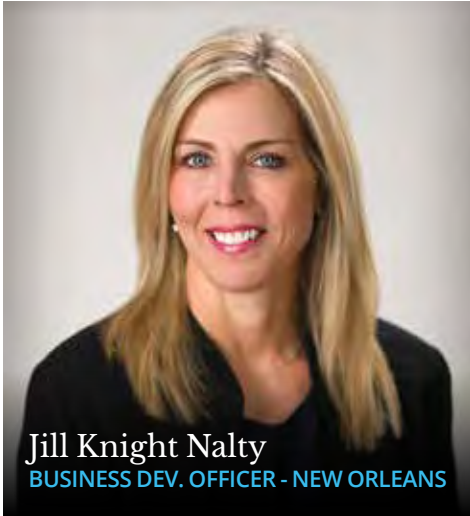
**Gary Moore**  
MARKET PRESIDENT - LOUISIANA



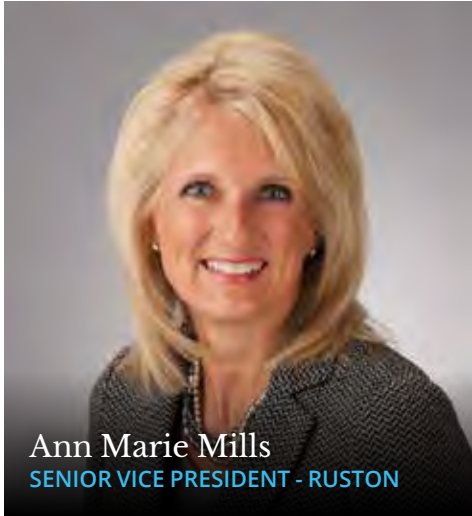
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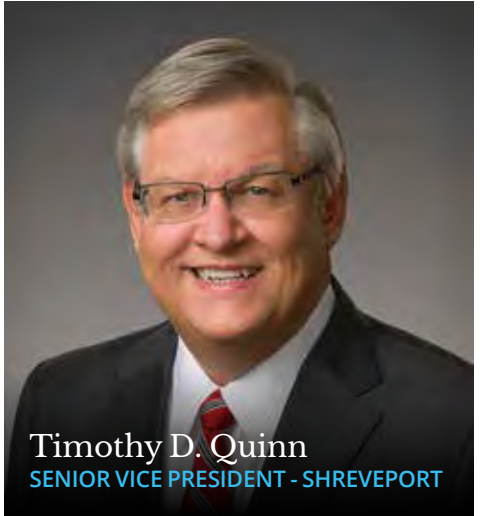
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By Trina S. Vincent, Louisiana Supreme Court

NEW JUDGES... IN MEMORIAM

## New Judges

### Cynthia

**Clay Guillory** was elected 14th Judicial District Court (Division J) judge, effective Jan. 1. She earned her bachelor's degree in 1976 from Xavier University of Louisiana, her master's degree in 1980 from McNeese State University and her JD degree in 1982 from Southern University Law Center. She worked as a paralegal at Drost & Savoie Law Firm from 1982-84 and was in the private practice of law from 1984-2020. She served as a Calcasieu Parish assistant district attorney and supervisor of the Child Support Division from 1985-87. From 2003-20, she served as an assistant district attorney for the Juvenile Division and was an adjunct professor of criminal law at McNeese State University. Judge Guillory is married to Brad L. Guillory and they are the parents of one child.



Cynthia Clay  
Guillory

### William M.

**Jorden** was elected 19th Judicial District Court (Division D) judge, effective Jan. 1. He earned his bachelor's degree in 2004 from Millsaps College and his JD degree in 2010 from Southern University Law Center. He worked as a student attorney at Southern University Law Center's Criminal Law Clinic from 2009-10 and as a substitute teacher at Landry-Walker High School from 2010-11. From 2011-14, he served as an Orleans Parish assistant district attorney. From 2014 until



William M. Jorden

his election to the bench, he served as an assistant district attorney at the 19th JDC. Judge Jorden is married to Brittany B. Jorden.

**Eboni Johnson Rose** was elected 19th Judicial District Court (Division H) judge, effective Jan. 1. She earned her bachelor's degree in 2002 from Southern University and A&M College and her JD degree in 2005



Eboni Johnson Rose

from Southern University Law Center. She was an associate attorney at McGlinchey Stafford, PLLC, from 2005-07; an adjunct professor at Southern University Law Center from 2007-08; an attorney for the Department of Social Services in 2008; an associate attorney at Ungarino & Eckert, LLC, from 2008-09; and employed with the Law Offices of Ronald R. Johnson & Associates from 2009-11. She was an attorney at the Department of Children and Family Services from 2011-14, the Department of Education from 2014-15 and the Division of Administration, Office of General Counsel, from 2015-18. She was an innovative procurement attorney at the Department of Transportation and Development from 2018-20. Judge Johnson Rose is married to Jonathan P. Rose and they are the parents of two children.

**Sydney Picou Walker** was elected 20th Judicial District Court (Division B) judge, effective Jan. 1. She earned her bachelor's degree in 1983 from Louisiana State University and her JD degree in 1986 from Southern



Sydney Picou  
Walker

University Law Center. She worked in private practice from 1986-2020. She served on the West Feliciana Parish Police Jury as District One representative from 1988-92, serving as president of the police jury all four years. From 1992-98, she worked in the Office of the Louisiana Attorney General as an assistant attorney general. She served on the West Feliciana Parish Council as an at-large member from 2016-20, as Council vice president from 2016-17 and as Council president from 2017-18. Judge Walker is married to Jess Leon Walker and has five children. She is the stepmother of three children.

**Erika Williams Sledge** was elected 21st Judicial District Court (Division C) judge, effective Jan. 1. She earned her bachelor's degree in 2002 from Southeastern Louisiana



Erika Williams  
Sledge

University and her JD degree in 2006 from Louisiana State University Paul M. Hebert Law Center. From 2006-11, she worked in private practice at Modica, Dowden & Sledge, Attorneys at Law, LLC, and at Burns & Sledge, Attorneys at Law, LLC, from 2011-14. She was a hearing officer at the 21st JDC from 2014 until her election to the bench. Judge Sledge is married to Collie Britain Sledge III and they are the parents of two children.

**Timothy C. Ellender, Jr.** was elected 32nd Judicial District Court (Division A) judge, effective Jan. 1. He earned his



Timothy C.  
Ellender, Jr.

Continued on page 72



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bachelor's degree in 1994 from Louisiana State University and his JD degree in 1998 from LSU Paul M. Hebert Law Center. He was an attorney at St. Martin & Williams from 1998-2004. From 2004 until his election to the bench, he worked in private practice in Houma. He is the father of two children.

**William M. McGoey** was elected 34th Judicial District Court (Division A) judge, effective Jan. 1. He earned his bachelor's degree in 1981 from Louisiana State University and his JD degree in 1984 from LSU



William M. McGoey

Paul M. Hebert Law Center. He worked as a law clerk at the 3rd Circuit Court of Appeal from 1984-85. He was a partner at Reinhardt & McGoey, Attorneys at Law, from 1985-98. He was employed at Evans

& Clesi, PLC, from 1998-2003 and as a trial attorney at Chopin, Wagar, Richard & Kutcher, LLP, from 2003-04. From 2004-06, he worked as a special partner at Barbara Ryniker Evans & Associates. He practiced at Casteel & Associates from 2006-10. He worked as legal counsel for St. Bernard Parish Government from 2010-16. From 2016-20, he worked as a St. Bernard Parish assistant district attorney. Judge McGoey is married to Katherine B. McGoey and they are the parents of two children.

**Nicholas E. Gasper** was elected 42nd Judicial District Court (Division B) judge, effective Jan. 1. He earned his bachelor's degree in 2005 from Louisiana College and his JD degree in 2008 from Louisiana State



Nicholas E. Gasper

University Paul M. Hebert Law Center. He was employed as a judicial clerk at the 42nd JDC from 2008-10 and worked as an associate at D. Scott Brown Law Office from 2010-16. He served as an alderman for the town of Stonewall from 2010-19. He worked in private practice from 2016-20 and served as a DeSoto Parish police juror in 2019. Judge Gasper is married to Nicole Croxdale Gasper and they are the parents of three children.

**Kimya M. Holmes** was elected Orleans Parish Criminal District Court (Division D) judge, effective Jan. 1. She earned her bachelor's degree in 1997 from the University of New Orleans and her JD degree in 2000 from



Kimya M. Holmes

Southern University Law Center. She was an Orleans Parish assistant district attorney



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from 2001-02 and again from 2004-05. She worked as a senior staff attorney at the Capital Defense Project of Southeast Louisiana from 2008-2018. From 2010 until her election to the bench, she served as a Criminal Justice Act panel attorney. She has worked as a National College of Capital Voir Dire instructor since 2012 and served as an ad hoc judge for Orleans Parish Juvenile Court in 2015. From 2018-2020, she worked as an attorney advisor of the Office of Medicare Hearings and Appeals. Judge Holmes is the mother of two children.

**David M. Duke** was elected Bogalusa City Court judge, effective Jan. 1. He earned his bachelor's degree in 1989 from Louisiana State University and his JD degree in 1992 from Mississippi College School of



David M. Duke

Law. He was an account representative at the Congressional Quarterly, Washington Alert, from 1993-95 and a product manager at the Congressional Quarterly, Weekly Report, from 1995-97. He was an online manager of USA Today Network Tennessee from 1997-98. From 1998-2002, he was the communications director of the Tennessee Bar Association. He was employed as a group publisher of legal products at M. Lee Smith Publishers from 2000-02 and was an account representative of LexisNexis from 2003-05. From 2006-20, he was an assistant district attorney in the 22nd Judicial District and worked as a city prosecutor of the City of Bogalusa from 2009-20. Judge Duke worked in private practice from 2005 until his election to the bench.

**Marsha McNulty** was elected Franklin City Court judge, effective Jan. 1. She earned her bachelor's degree in 1977 from Louisiana State University, her master's degree in 1983 from the University of Southwestern Louisiana (currently University of Louisiana-Lafayette) and her JD degree in 1988 from LSU Paul M. Hebert Law Center. She worked as an English teacher from 1977-85 and as a 16th Judicial District law clerk from

1988-89. In 1990, she worked as a 16th Judicial District assistant district attorney. In 1991, she was employed as a federal judicial law clerk at the U.S. District Court, Western District of Louisiana. In 1993, she practiced at Biggs, Trowbridge, Supple, Cremaldi & Curet, LLC. From 2001-20, she worked as a 16th Judicial District assistant district attorney. She was in private practice at Duplantis & McNulty, LLP, from 2001-present. Judge McNulty is married to Edward E. Chase, Jr. and is the mother of two children.



Marsha McNulty

**Robert C. Owsley** was elected Natchitoches City Court judge, effective Jan. 1. He earned his bachelor's degree in 1988 from Louisiana State University and his JD degree in 1991 from Tulane University Law School. He worked in private practice from 1992-96. From 1996-2004, he worked at Legal Services of North Louisiana. From 2004 until his election to the bench, he worked at Murchison & Murchison, LLC. Judge Owsley is married to Kathy Owsley and they are the parents of two children.



Robert C. Owsley

**J. Keith Gates** was elected Winnfield City Court judge, effective Jan. 1. He earned his bachelor's degree in 2004 from Northwestern State University and his JD degree and bachelor of civil law degree in 2007 from Louisiana State University Paul M. Hebert Law Center. He was a law clerk at the Louisiana Supreme Court from 2007-08. From 2008-11, he worked at Mahtook & Lafleur, LLC. From 2011-12, he was a co-founder and senior attorney at Cause



J. Keith Gates

of Action. From 2012 to the present, he worked in private practice. Judge Gates is married to Amber Gates.

## Deaths

► Retired 5th Circuit Court of Appeal Judge Thomas C. Wicker, Jr., 97, died Feb. 24, 2021. Judge Wicker earned his bachelor's degree in 1944 from Tulane University and his JD degree in 1949 from Tulane University Law School. He served in the U. S. Navy from 1944-45. From 1949-50, he was a law clerk at the Louisiana Supreme Court. He was appointed as an assistant U.S. attorney from 1950-53. From 1953-72, he was the senior partner of Wicker, Wiedemann & Fransen. From 1976-82, he was a faculty member at Tulane University and a member of the Faculty Committee of the National Judicial College. In 1960, he was elected to the Louisiana State Bar Association's House of Delegates and served until his election to the bench in 1972. He was elected as a 24th Judicial District Court judge in 1972 and was reelected in 1979 and 1984, during which time he served as chief judge. In 1971, he served as judge ad hoc for the First Parish Court for Jefferson Parish. He was appointed by the Louisiana Supreme Court to serve as judge *pro tempore* of the Louisiana 4th Circuit Court of Appeal. In 1986, he was elected to the 5th Circuit Court of Appeal, where he served until his retirement in 1998.

► Retired Orleans Parish Criminal District Court Judge Terry Q. Alarcon, 72, died April 3, 2021. Judge Alarcon earned his bachelor's degree in 1970 from Spring Hill College, his master's degree in 1974 from the University of Alabama and his JD degree in 1978 from Loyola University New Orleans College of Law. He was a Jefferson Parish assistant district attorney from 1983-86 and a partner in the Brandt, Alarcon & McDonald Law Firm. He worked in the City of New Orleans Mayor's Office as executive counsel from 1986-89, when he was named chief of staff. In 1991, he was elected to serve as a New Orleans Traffic Court judge and served until his election to the Orleans Parish Criminal District Court bench in 1996. He served as chief judge from 2010 until his retirement in 2012.



# PEOPLE

## LAWYERS ON THE MOVE . . . NEWSMAKERS

### LAWYERS ON THE MOVE

Adams and Reese, LLP, announces that Mary Katherine Fernandez, Grant A. Leger and Jeffrey M. Surprenant have joined the firm's New Orleans office as associates.

**Lawrence R. Anderson, Jr.** announces the opening of his new office at the Coursey Law Center, 11953 Coursey Blvd., Baton Rouge, LA 70816; phone (225)293-7100 or (225)324-7459; email [larry@lraattorney.com](mailto:larry@lraattorney.com); website: <https://lraattorney.com>.

Barrasso Usdin Kupperman Freeman & Sarver, LLC, in New Orleans announces that **Taylor L. Gamm** has joined the firm as an associate.

Courington, Kiefer, Sommers, Marullo & Matherne, LLC, in New Orleans announces that Ashley M. DeMouy and

William E. Newman have become associates with the firm.

Fuerst, Carrier & Ogden, LLC, in Lake Charles announces that **Patricia Manetsch Beasley** has joined the firm as a partner. The firm's new location is Ste. 300, 127 W. Broad St., Lake Charles, LA 70601; website: [www.familyfuerst.com](http://www.familyfuerst.com).

Haik, Minvielle & Grubbs, LLP, in New Iberia and New Orleans announces that its firm name has changed to Haik, Minvielle, Grubbs & D'Albor, LLP. **Jean Paul (J.P.) D'Albor** has been a partner in the firm since 2015.

Hinshaw & Culbertson, LLP, announces that **Kyle A. Ferachi** has joined the firm as a partner. Based in Houston, TX, Ferachi also practices in the firm's Baton Rouge office. Also, **Erin F. Parkinson** has joined the firm as a partner in the New Orleans office.

Kean Miller, LLP, announces that Ross F. Roubion has joined the firm's Lafayette office as an associate.

The Louisiana State Bar Association (LSBA) announces that **Mariarenee Contreras** has joined the staff as projects counsel in the Access to Justice (ATJ) Department. She most recently worked as a staff attorney for Southeast Louisiana Legal Services, working with the employment and public benefits unit. Her work included providing legal educational resources online, in both Spanish and English, in response to the COVID-19 pandemic. Her LSBA responsibilities include working with the second phase of the Justice For All grant and other projects, including the Criminal Justice Committee, the ATJ Commission, the ATJ Disaster Response Subcommittee and [LaFreeLegalAnswers.org](http://LaFreeLegalAnswers.org)

Continued on page 76



Richard J. Arsenault



Lawrence R. Anderson, Jr.



Patricia Manetsch Beasley



Kristin L. Beckman



Alicia M. Bendana



Mariarenee Contreras



Jean Paul D'Albor



Brandon E. Davis



Kyle A. Ferachi



Taylor L. Gamm



Catherine Fornias Giarrusso



Alexis P. Joachim

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## What is Problem Gambling Resource Services (“PGRS”)?

PGRS is a new program led by the Louisiana Department of Justice, Gaming Division in partnership with the Louisiana Department of Health, Office of Behavioral Health to bring awareness about problem gambling and the FREE gambling addiction services available to all Louisiana residents. Not only are attorneys in a unique position to determine that their clients may have a gambling problem, but attorneys are at a greater risk themselves.

## A client’s gambling addiction may be the underlying cause of what led them to seek your help:

Attorneys are in a unique position to identify problem gambling behavior in their clients because they have access to client information, financial records, and other documentation that is generally not available to others. Clients, protected by attorney -client privilege, may feel safe disclosing a gambling problem to their attorney.

## Lawyers and their staff are at a high risk for Problem Gambling. Here’s why:

- Lawyers are among the professionals most likely to suffer from stress and depression, which can play a role in the development of problem gambling behavior.
- Lawyers are risk takers. The legal profession is often a high risk, high reward environment, which may lead to risk taking behavior, such as gambling.
- Lawyers often have access to large sums of money, such as client trust accounts, retainers, settlement proceeds, etc.
- Lawyers are at a heightened risk for alcohol and drug misuse and dependency, which can increase the possibility for developing co-occurring alcohol/drug and gambling addictions.

## What happens when someone calls 1-877-770-STOP?

- The Helpline, like all gambling addiction services offered by Louisiana, is confidential and FREE.
- The Helpline is answered by trained, certified and caring Helpline Specialists. The Specialists do not provide counseling, but they will refer you to a qualified counselor and all the FREE resources in your area.

**If you have concerns about your own gambling or if you suspect that a client or colleague may have a problem, call or text 1-877-770-STOP for FREE help.**



Lugenbuhl, Wheaton, Peck, Rankin & Hubbard announces that **Alicia M. Bendana** has joined its New Orleans headquarters as a shareholder.

McGlinchey Stafford, PLLC, announces that Michael D. Ferachi is the firm's new managing member (partner). He is based in the Baton Rouge office. R. Andrew Patty II has been named the office managing member in the firm's Baton Rouge office, and Magdalen Blessey Bickford has been named the office managing member in the firm's New Orleans office. Also, Camille R. Bryant and Sarah E. McMillan have been promoted to members (partners) in the New Orleans office. Brad M. Barback has joined the firm's Baton Rouge office as an associate.

Roth Law Firm, L.L.C., in New Orleans announces that **Daniel J. Walter** and **Matthew A. Treuting** have been named partners.

Simon, Peragine, Smith & Redfearn, LLP, in New Orleans announces that Casie Z. Davidson and Kaile L. Mercuri have been named partners in the firm.

Staines, Epling & Kenney, LLC, in Metairie announces that Vergie L. Riley has become an associate of the firm.

Stone Pigman Walther Wittmann, LLC, announces that member Heather S. Lonian is the firm's chief diversity officer. She works in the New Orleans office.

Strauss Massey Dinneen, LLC, in New Orleans announces that **Brock L. Wimberley** has joined the firm as an associate.

White Andrews, LLC, announces that **Desirée M. Valenti** has been named a partner in the New Orleans office.

## NEWSMAKERS

**Richard J. Arsenault**, a partner in the Alexandria firm of Neblett, Beard & Arsenault, was a guest lecturer at a Baylor Law School LL.M. program on issues associated with complex litigation. The American Bar Association approved the National Board of Trial Advocacy's board certification in complex litigation; Arsenault is one of the founding board directors and will become one of the nation's first attorneys to become board-certified in complex litigation.

Philip S. Brooks, Jr., Kenneth J. Gelpi, Jr., Edmond C. Haasé III, Ronald J. Kitto, Edward L. Fenasci and A. Gordon

Grant, Jr. recently celebrated the first anniversary of the founding of their firm, Brooks Gelpi Haasé, LLC, located in the First Bank and Trust Tower, Ste. 2325, 909 Poydras St., New Orleans, LA 70112; website [www.brooksgelpi.com](http://www.brooksgelpi.com).

Camille R. Bryant, a member (partner) in the New Orleans office of McGlinchey Stafford, PLLC, has been selected as a member of the Leadership Council on Legal Diversity's 2021 Fellows class.

Lester J. Gauthier, Jr., with the Law Offices of Lester J. Gauthier in Lafayette, was named to the Lafayette Bar Association's Hall of Fame in 2020.

Christopher M. Hannan, a shareholder in the New Orleans office of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, earned a Global Information Assurance Certification (GIAC) Law of Data Security and Investigations certification.

Three Phelps Dunbar, LLP, attorneys were chosen for 2021 programs of the Leadership Council on Legal Diversity. **Brandon E. Davis**, a partner in the New Orleans office, was named a 2021 Fellow. **Rebecca Sha**, an associate in the New Orleans office, and **Michael**



Kelsey L. Meeks



Erin F. Parkinson



H. Minor Pipes III



Christopher K. Ralston



Rebecca Sha



Christopher R. Teske



Matthew A. Treuting



Desirée M. Valenti



Margaret A. Viator



Michael B. Victorian



Daniel J. Walter



Brock L. Wimberley



**B. Victorian**, an associate in the Baton Rouge office, joined the 2021 class of Pathfinders.

**Christopher K. Ralston**, a partner in the New Orleans office of Phelps Dunbar, LLP, was installed as president of the Tulane Alumni Association for a 2020-22 term.

Lauren J. Rucinski, an associate in the Baton Rouge office of Kean Miller, LLP, was selected as a member of the 2021 class of Pathfinders for the Leadership Council on Legal Diversity.

Layna Cook Rush, a shareholder in the Baton Rouge office of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, was named chair of the firm's Data Incident Response Team.

Michael D. Spencer, an attorney with Lumen Technologies based in Monroe, was selected as a member of the 2021 Fellows class for the Leadership Council on Legal Diversity.

**Desirée M. Valenti**, a partner in the New Orleans office of White Andrews, LLC, has been certified by the Louisiana Board of Legal Specialization (LBLS) as an appellate practice specialist. She also has been appointed to the LBLS Appellate Practice Advisory Commission.

**Margaret A. Viator**, an associate in the New Orleans office of Phelps Dunbar, LLP, was honored by Louisiana Applesseed as the 2021 Access to Opportunity Pro Bono Good Apple.

## PUBLICATIONS

### *Louisiana Super Lawyers 2021*

**Courington, Kiefer, Sommers, Marullo & Matherne, LLC** (New Orleans): Troy N. Bell, Kaye N. Courington, Scott B. Kiefer and Dawn D. Marullo; and Brittney B. Ankersen and Mathilde V. Semmes, both Rising Stars.

**Forman Watkins & Krutz, LLP** (New Orleans and Jackson, MS): Charles H. Abbott and Tim Gray; and Chelsea Gaudin Favret, Elizaeth R. Penn, Daniel S. Roberts and T. Peyton Smith, all Rising Stars.

**Law Offices of Lester J. Gauthier** (Lafayette): Lester J. Gauthier, Jr.

**Pipes Miles Beckman, LLC** (New Orleans): **Kristin L. Beckman, Catherine (Cassie) Fornias Giarrusso, H. Minor Pipes III** and **Christopher R. Teske**; and **Alexis P. Joachim** and **Kelsey L. Meeks**, both Rising Stars.

## IN MEMORIAM

**Bob F. Wright**, the 1978-79 president of the Louisiana State Bar Association (LSBA) and the senior partner in the Lafayette law firm of Domengeaux,

Wright, Roy & Edwards, LLC, died peacefully on March 28. He was 89.

Born in Monticello, Ky., and growing up in Danville, Ill., he developed a love for basketball. He was awarded a full athletic scholarship to Centenary College in Shreveport where he lettered in basketball, baseball, track and football and was later inducted into the Centenary Athletic Hall of Fame. He continued his education at Tulane University Law School on a full academic scholarship. He was a member of the *Tulane Law Review*, the Moot Court Board and Omicron Delta Kappa.

Upon graduation from Tulane, he was hired by attorney James Domengeaux in Lafayette, where he quickly advanced to become a partner in the firm. His law practice focused in admiralty and maritime law and personal injury litigation. Throughout his trailblazing career, he tried many landmark cases. He was nationally recognized for his success in the courtroom and his relentless advocacy on behalf of his clients.

Wright was a Fellow of the International Academy of Trial Lawyers and was inducted into the Lafayette Bar

Continued next page



**Bob F. Wright**  
(1978-79)

# LSBA Member Services

The mission of the Louisiana State Bar Association (LSBA) is to assist and serve its members in the practice of law. The LSBA offers many worthwhile programs and services designed to complement your career, the legal profession and the community.



In the past several years, the legal profession has experienced many changes. The LSBA has kept up with those changes by maturing in structure and stature and becoming more diverse and competitive.

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**Bob F. Wright**

Association Hall of Fame. He served as chair of the Louisiana Judiciary Commission, where he was recognized with the Stalwart Award; as president of the Louisiana Trial Lawyers Association; as president of the Lafayette Bar Association; as president of the University of Louisiana-Lafayette Century Club; as president of the board of trustees of Louisiana Colleges and Universities; and as president of the Louisiana Racing Commission.

His many entrepreneurial endeavors included the reestablishment of the New Orleans Commodity Exchange, the restoration of the Maison St. Charles Hotel, and the development of the Squirrel Run Golf Course in New Iberia and the Louisiana Ice Gator Professional Hockey Team.

Throughout his career, Wright recognized the importance of mentoring young attorneys and instilling a legacy of integrity and generosity in those that

he mentored. He established the Bob F. Wright and Gay LeCorgne Wright Tulane University Law School Endowment Fund to continue this legacy.

His most cherished time was spent globe-trotting with his wife and spending time with family and friends at his home in Pass Christian, MS. He was an avid reader, a proficient golfer, and enjoyed history, preservation, travel, philanthropy and horses.

A common refrain from his friends and colleagues following his passing was that he was the most generous and considerate person they had ever known. His love and devotion to his wife, family and friends is how he would want to be remembered and celebrated.

Wright is survived by his wife of 43 years, Gaynell LeCorgne Wright; his son Dr. Forrest H. Wright; his daughter Emily Ellen Wright; his sister Shirley Dalide; and one grandson and other relatives.

**Stephen J. Oats,**

a founding partner of the Lafayette law firm Oats & Marino, died suddenly on Jan. 26 at his residence in Lafayette. He was 63. A native of Lafayette, he graduated, *cum laude*, in 1979 from the University of Southwestern Louisiana.



**Stephen J. Oats**

He received his JD degree in 1983 from Tulane University Law School. He returned to Lafayette and began his law practice in 1985. He was the managing partner of Oats & Marino and chaired the firm's executive and administrative committees. He was appointed as Louisiana Department of Justice special assistant attorney general and was general counsel for the Morial Convention Center in New Orleans, the Lafayette Parish assessor, the Lafayette Parish clerk of court, the Realtor Association of Acadiana and the LITE Commission in Lafayette. He was a member of the American Bar Associations and was a lifetime Fellow of the Louisiana Bar Foundation and the Louisiana Association of Defense Counsel. He served as a commissioner on the Louisiana Wildlife and Fisheries Commission. He was an active member of the University of Southwestern Louisiana Alumni Association and served as the president, president-elect, vice president of membership and finance, treasurer and on its Board of Governors. His devotion to University of Louisiana-Lafayette athletics, especially baseball, was strong. His friends, colleagues and family treasure him as an honorable person, one who could be counted on, and as a great friend, host and source of good cheer. He is survived by his wife of 42 years, Sylvia Mineo Oats; his mother, Ellen Stearns Level; his sisters Kathleen Oats Duplechien and Cher Oats; and other relatives.

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Shown seated: Holly Sharp, CPA, CFE, CFF    Shown standing from left: Gilbert Herrera; Michele Avery, CPA/ABV, MBA, CVA, MAFF

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## UPDATE

### Brooks is 2019-20 Recipient of Leah Hipple McKay Award

Thibodaux attorney Beau S. Brooks is the 2019-20 recipient of the Louisiana State Bar Association's (LSBA) Leah Hipple McKay Memorial Award for Outstanding Volunteerism.



Beau S. Brooks

The McKay Award is the premier award of the LSBA's Citizen Lawyer Awards program. The award is named in honor of the late Leah Hipple McKay, a member of the LSBA and a deeply committed volunteer. The award is presented to a Louisiana lawyer or judge who has made significant long-term volunteer contributions.

Brooks practices in the area of family law at Brooks Law Office, APLC, in Thibodaux. He also is the city attorney for the City of Thibodaux. He is a graduate of Nicholls State University and Southern University Law Center.

Brooks and his wife Michelle are the parents of two daughters and a son. Shortly after his son was born with Down Syndrome, Brooks co-founded the non-profit organization Upside Downs. Upside Downs supports the Down Syndrome community by providing new parent support in the form of baskets delivered to hospitals, recreational activities and raising Down Syndrome awareness.

Brooks and his family were named the "Family of the Year" at the 2019 Governor's Outstanding Leadership in Disabilities Awards.

### Judge Schlegel Named Chair of the LASC Technology Commission

Judge Scott U. Schlegel with the 24th Judicial District Court has been named chair of the Louisiana Supreme Court's Technology Commission.



Judge Scott U. Schlegel

Since his election to the 24th JDC in 2013, Judge Schlegel has strived to bring technology into the courtroom. His efforts have greatly assisted the legal profession during the evolving COVID-19 pandemic.

In response to fears of COVID-19 spreading in jails, Judge Schlegel worked to increase the number of motions heard to reduce bond. Once a motion was filed, Judge Schlegel utilized Slack to notify at-

torneys if the motion could be heard with a two-day time frame.

He partnered with Dorna Moini, CEO of Documate, to develop an online guilty plea form. The guilty plea form allows Judge Schlegel to host video hearings and formally accept pleas. Once defendants complete the form, they can also meet with their attorneys in virtual breakout rooms.

Judge Schlegel also collaborated with Tom Martin, CEO of LawDroid, to develop a text-based chatbot. The chatbot was created to facilitate check-ins with specialty court probation officers. The chatbot serves as a temporary resolution to in-person gathering restrictions.

Shortly after the pandemic shut down courts, Judge Schlegel launched [courtonline.us](http://courtonline.us). [Courtonline.us](http://Courtonline.us) provides resources and access to video conferences with 24th JDC judges.

### La. Supreme Court Announces Method of Administration of July 2021 Bar Examination

Upon the recommendation of the Committee on Bar Admissions (COBA), the Louisiana Supreme Court issued an Order announcing the method of administering the July 2021 Louisiana Bar Examination due to the ongoing COVID-19 pandemic.

The July 2021 remote bar examination will be in open-book format, with no live monitoring or proctoring. The exam will be administered utilizing the services of a third-party software vendor. Applicants will download the software onto their personal computer to facilitate viewing and responding to examination questions.

"Faced with ongoing developments of the pandemic, it is important that we keep safety at the forefront while remaining vig-

ilant in fairly administering the bar exam," said Louisiana Supreme Court Chief Justice John L. Weimer. "Louisiana is not alone in its approach. According to the National Conference of Bar Examiners, to date, 22 states have announced the need to administer the bar exam remotely. I'd like to thank COBA volunteers and staff who work so diligently in preparation and administration of the bar examination. I also wish the applicants success."

Applicants must complete all other requirements for admission as set forth in Louisiana Supreme Court Rule XVII, including satisfying character and fitness requirements and passing the Multistate Professional Responsibility Examination.

## New Louisiana Child in Need of Care Benchbook Published

The Court Improvement Program of the Louisiana Supreme Court, the Louisiana Judicial College and the Pelican Center for Children and Families announced the publication of the “Louisiana Child in Need of Care (CINC) Benchbook for Juvenile Judges.”

The benchbook project is a part of the Child and Family Services Review Program Improvement Plan. The benchbook incorporates state and federal laws, best practices and the Department of Children & Family Services’ Child Welfare Assessment and Decision Making Model, designed to expedite permanency and decrease the trauma experienced by families and children in CINC proceedings. This work is the culmination of a year-long collaborative ef-

fort involving many legal stakeholders in Louisiana.

In addition to the judicial benchbook, the collaborative also created bench cards and order templates that will be available to Louisiana’s state judges and legal practitioners. This project, a deliverable goal of the Louisiana Supreme Court’s Court Improvement Program, was undertaken in partnership with the Pelican Center for Children and Families to develop strategies to improve outcomes for Louisiana children and families in the state’s child welfare system based upon review findings of the federal Children’s Bureau.

Several Louisiana state court judges were instrumental in providing input, guidance and feedback on the content of the judicial benchbook, including

Jefferson Parish Juvenile Court Judge Barron C. Burmaster; Orleans Parish Juvenile Court Judge Desiree Cook Calvin; 9th JDC Judge John C. Davidson; 15th JDC Judge Thomas R. Duplantier; 21st JDC Judge Blair D. Edwards; 22nd JDC Judge Scott C. Gardner; East Baton Rouge Parish Juvenile Court Judges Gail Grover and Adam J. Haney; 29th JDC Judge Timothy S. Marcel; Caddo Parish Juvenile Court Judge David N. Matlock; retired Orleans Parish Juvenile Court Judge Ernestine S. Gray; and retired East Baton Rouge Parish Juvenile Court Judge Kathleen Stewart Richey.

The benchbook, including editable versions of the order templates, may be directly accessed at: [www.lasc.org/Children\\_Families?p=CIP](http://www.lasc.org/Children_Families?p=CIP).

## Thanks to the 2020-21 LSBA Outreach Committee

The Louisiana State Bar Association would like to thank the 2020-21 members of the Outreach Committee for their service.

The mission of the Outreach Committee is to develop and implement sustained outreach to local and specialty bars throughout the state and to increase awareness of the member services and benefits provided by the LSBA. The committee encourages member participation in all aspects of the LSBA and facilitates participation through the use of technology and any other feasible alternatives.

Bethany A. Blackson, Co-Chair  
Sean P. Brady  
Justin S. Brashear

Valerie A. DeLette  
Cortney M. Dunn  
Sarah R. Giglio  
Ethan A. Hunt  
Khalid Iqbal  
Justin A. Jack  
Jennifer Gordon-Lampton  
Melissa A. Pestalozzi  
Elizabeth S. Sconzert, Co-Chair  
Dwazendra J. Smith  
Briana C. Spivey  
Tyler G. Storms  
Chase D. Tettleton  
Michael B. Victorian  
Sherron P. Williams  
Christie C. Wood  
Arielle L. Young



The Louisiana State Bar Association thanks the Outreach Committee members and its leadership for working with LSBA staff to provide invaluable programming to members through the coronavirus pandemic. LSBA Outreach Committee co-chairs, from left, Bethany A. Blackson, Louisiana Department of Health; and Elizabeth S. Sconzert, Blue Williams LLP.

## LSBA Outreach Committee Partners with Rocket Matter for CLE Series

The Louisiana State Bar Association’s Outreach Committee partnered with Rocket Matter, LLC, to present a four-part CLE series. Speaker Larry Port is founder and CEO of Rocket Matter.

The Dec. 17, 2020, session discussed “How to Work Remote and Still Run a Successful Law Firm,” familiarizing attendees with best practices for enabling remote work and making implementation easy.

The March 10, 2021, session dis-

cussed “Office 365: The Ultimate Crash Course for Lawyers.” Attendees gained a high-level overview of Office 365’s capabilities, learned Excel commands, and gained insight into Office 365 styles and document automation.



Larry Port, founder and CEO, RocketMatter, LLC.

The April 14, 2021, session, “Microsoft 365: Getting the Most Out of Word for Lawyers,” familiarized attendees with styles and document formatting, using mail merge to create legal document templates, and insight into how Word interacts with legal practice management software.

The May 20, 2021, session, “Microsoft 365: A Crash Course on Excel for Legal Professionals,” familiarized attendees with the basic core functionality of Excel.

# “Becoming Your Best Self” Webinar Hosted by Pipeline to Diversity and Outreach Subcommittee

The Louisiana State Bar Association Committee on Diversity in the Legal Profession’s Pipeline to Diversity and Outreach Subcommittee hosted the CLE webinar, “Becoming Your Best Self: Take Command, Be Empowered and Own Your Future,” on Feb. 23.

The webinar featured speakers Associate Justice Piper D. Griffin, Louisiana Supreme Court; Judge Tiffany G. Chase, 4th Circuit Court of Appeal; and Judge Karelia R. Stewart, 1st Judicial District Court.

During the webinar, panelists shared their personal experiences on leveraging individual strengths to trailblaze a path to leadership in the legal profession.



**Associate Justice  
Piper D. Griffin**



**Judge Tiffany G.  
Chase**



**Judge Karelia R.  
Stewart**



**Louisiana Supreme Court Chief Justice John L. Weimer at the Louisiana Bar Foundation Annual Fellows Gala on April 23. Photo by Matthew Hinton Photography.**



**Louisiana Bar Foundation 2021-22 President Christopher K. Ralston addressed the LBF Annual Fellows Gala on April 23 as a hybrid event. Photo by Matthew Hinton Photography.**



**Robert A. Kutcher, Barry H. Grodsky and H. Minor Pipes III at the LBF Annual Fellows Gala from Antoine’s Restaurant on April 23. Photo by Matthew Hinton Photography.**



**Louisiana Bar Foundation 2020-21 President Harry J. (Skip) Philips, Jr. kicked off the LBF Annual Fellows Gala from Antoine’s Restaurant on April 23 as a hybrid event. Photo by Matthew Hinton Photography.**



# President's Message

## Civil Legal Aid is a Good Investment

By 2021-22 President Christopher K. Ralston

Civil legal aid is free legal assistance provided to help people facing non-criminal, civil legal challenges. Civil legal aid helps people with a range of issues, including assistance for veterans and military families, domestic violence, senior and elderly services, child welfare services, housing and employment. While every American has a constitutional right to an attorney in criminal matters, when it comes to civil matters, access to an attorney is not a fundamental right.

Louisiana's poverty rates are among the nation's highest. A staggering 40% of Louisiana's citizens earn incomes below 200% of the Federal Poverty Level. As the fourth most impoverished state in the nation, Louisiana has nearly 8 million people potentially eligible for free civil legal aid.

I am proud to serve as the president of the Louisiana Bar Foundation (LBF), which, for more than 30 years, has been a trusted authority and the state's largest funder of civil legal aid. Our decades of experience as a responsible steward of funds, along with our well-established partnerships across all 64 parishes, allow us to help

hundreds of thousands of Louisiana residents gain access to the legal system.

We know that during and after a disaster, whether a pandemic or a storm, civil legal aid needs dramatically increase. Displaced families and individuals experience a variety of legal needs. Many need help with successions and title clearing to access federal recovery dollars. Missed rent payments lead to eviction notices. Domestic violence centers are impacted with increased residents. Vulnerable children need protection due to family instability and separation. For many Louisiana citizens facing these crises, an effective and powerful response must include civil legal aid.

The LBF recently conducted an Economic Impact and Social Return on Investment Analysis for fiscal year 2020 that included data from 45 civil legal aid providers. Social return on investment



Christopher K. Ralston

(SROI) is an internationally standardized and accepted process for measuring and understanding the financial impact of social services organizations.

The findings show that dollars spent on Louisiana's civil legal aid providers are well spent and deliver unmistakable economic returns to the state.

► For every \$1 invested in Louisiana's civil legal aid services, these programs deliver \$9.18 in immediate and long-term consequential financial benefits, including reduced reliance on government aid and the judiciary system.

► The net economic impact value resulting from Louisiana civil legal aid activities during the year totaled \$64,823,000.

► The total net social return on investment for Louisiana's civil legal aid programs during fiscal year 2020 was 918%.

It is our hope that the analysis will help us better educate the public on the value of civil legal aid and will lead to continued funding of civil legal services. For the full analysis, go to: [www.raisingthebar.org](http://www.raisingthebar.org).

Civil legal aid is a good investment because our society improves when people understand the law and have equal access to justice. When we help our citizens better their situations and their futures, that also benefits our economy, our communities and our state. Stronger and more stable communities are better for all of us in Louisiana.



Louisiana Supreme Court Chief Justice John L. Weimer swore in the 2021-22 Louisiana Bar Foundation officers, from left, Immediate Past President Harry J. (Skip) Philips, Jr., President Christopher K. Ralston, Vice President Alan G. Brackett, Treasurer Deidre D. Robert and Secretary Hon. John C. Davidson. Photo by Matthew Hinton Photography.

### LBF Welcomes New 2021 Fellows

The Louisiana Bar Foundation welcomed the following new Fellows:

- Taylor B. Ashworth ..... Lafayette
- Miles C. Hesterly ..... Lafayette
- Corrine M. Blache ..... Baton Rouge
- Hansel M. Harlan ..... Baton Rouge

# CLASSIFIED

ADS ONLINE AT [WWW.LSBA.ORG](http://WWW.LSBA.ORG)

## CLASSIFIED NOTICES

Standard classified advertising in our regular typeface and format may now be placed in the *Louisiana Bar Journal* and on the LSBA Web site, [LSBA.org/classifieds](http://LSBA.org/classifieds). All requests for classified notices must be submitted in writing and are subject to approval. Copy must be typewritten and payment must accompany request. Our low rates for placement in both are as follows:

## RATES

### CLASSIFIED ADS

Contact Krystal L. Bellanger at (504)619-0131 or (800)421-LSBA, ext. 131.

#### Non-members of LSBA

\$85 per insertion of 50 words or less  
\$1 per each additional word  
\$20 for Classy-Box number

#### Members of the LSBA

\$60 per insertion for 50 words or less  
\$1 per each additional word  
No additional charge for Classy-Box number

Screens: \$25

Headings: \$15 initial headings/large type

### BOXED ADS

Boxed ads must be submitted camera ready by the advertiser. The ads should be boxed and 2¼" by 2" high. The boxed ads are \$70 per insertion and must be paid at the time of placement. No discounts apply.

### DEADLINE

For the August issue of the Journal, all classified notices must be received with payment by June 18, 2021. Check and ad copy should be sent to:

LOUISIANA BAR JOURNAL  
Classified Notices  
601 St. Charles Avenue  
New Orleans, LA 70130

### RESPONSES

To respond to a box number, please address your envelope to:

Journal Classy Box No. \_\_\_\_\_  
c/o Louisiana State Bar Association  
601 St. Charles Avenue  
New Orleans, LA 70130

## POSITIONS OFFERED

**Associate attorney** position available in Lafayette AV-rated personal injury firm. Top academic background and prior personal injury experience (plaintiff or defense) desired. Career opportunity. Email résumés and writing samples to: [donna@andersondozier.com](mailto:donna@andersondozier.com).

**Baldwin Haspel Burke & Mayer, LLC**, seeks a qualified tax attorney with two-10 years' experience to provide support to its diversified business transaction and personal tax planning practice. La. State Bar license required; LL.M. in taxation highly preferred. Great compensation including formula bonuses; comprehensive benefits package. Email résumé to: [bprovensal@bhbmllaw.com](mailto:bprovensal@bhbmllaw.com). [www.bhbmllaw.com](http://www.bhbmllaw.com).

**Baldwin Haspel Burke & Mayer, LLC**, seeks a qualified litigation associate with two-four years' experience to provide support to its maritime, insurance and personal injury defense practice. Ideal candidates must be able to multitask and work collaboratively with supervising partners. La. State Bar license required. Email résumé to: [bprovensal@bhbmllaw.com](mailto:bprovensal@bhbmllaw.com). [www.bhbmllaw.com](http://www.bhbmllaw.com).

**King & Jurgens, LLC**, seeks commercial litigation associate with two-three years of experience for challenging, fast-paced role in downtown New Orleans office. Must be prepared to take and defend depositions, draft and argue motions, and have direct client contact. Competitive salary, bonus structure and benefits offered. Email résumé with class rank, transcript and writing sample to: [rossi@kingjurgens.com](mailto:rossi@kingjurgens.com).

**Boutique tax, business and estate planning law firm** located in the New Orleans CBD is seeking to hire for a permanent position an attorney with two to three years' experience in tax, business or estate planning. Tax experience and/or LLM preferred. Email résumé and statement of relevant experience to: [neworleanstaxlawfirm@gmail.com](mailto:neworleanstaxlawfirm@gmail.com).

## SERVICES

**Texas attorney**, LSU Law 1985. Admitted in Louisiana and Texas. I am available to attend hearings, conduct depositions, act as local counsel and accept referrals for general civil litigation in the Houston area. Contact Manfred Sternberg, Jr. at (713)622-4300; email [manfred@msternberg.com](mailto:manfred@msternberg.com).

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# 2019-20

# LOUISIANA STATE BAR ASSOCIATION

# ANNUAL REPORT



Louisiana  
State Bar  
Association

*Serving the Public. Serving the Profession.*

Board of Governors,  
Louisiana State Bar Association,  
New Orleans, LA.

We have audited the accompanying consolidated financial statements of the Louisiana State Bar Association and Affiliates (a nonprofit organization), which comprise the consolidated statements of financial position as of June 30, 2020 and 2019, and the related consolidated statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the consolidated financial statements.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Louisiana State Bar Association and affiliates as of June 30, 2020 and 2019, and the changes in their net assets and their cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

*Bourgeois Bennett, LLC.*  
Certified Public Accountants

New Orleans, Louisiana  
April 7, 2021

**LOUISIANA STATE BAR ASSOCIATION  
AND AFFILIATES**

**Consolidated Statement of Financial Position**

June 30, 2020

	Without Restrictions	With Restrictions	Totals
<b><u>ASSETS</u></b>			
<b>Current Assets</b>			
Cash and cash equivalents	\$ 1,630,227	\$2,565,246	\$ 4,195,473
Accounts receivable	105,832	89,869	195,701
Receivable from LCJC	53,153	-	53,153
Accrued interest receivable	18,571	-	18,571
Prepaid expenses	95,112	4,759	99,871
Total current assets	1,902,895	2,659,874	4,562,769
<b>Investments</b>	8,799,027	1,407,538	10,206,565
<b>Property and Equipment, net</b>	1,707,974	1,556	1,709,530
<b>Deposits</b>	-	2,250	2,250
Totals	\$12,409,896	\$4,071,218	\$16,481,114
<b><u>LIABILITIES AND NET ASSETS</u></b>			
<b>Current Liabilities</b>			
Unearned revenue	\$ 1,588,560	\$ -	\$ 1,588,560
Accounts payable and accrued expenses	606,837	175,468	782,305
Total current liabilities	2,195,397	175,468	2,370,865
<b>Net Assets</b>			
Without restrictions:			
Board-designated capital reserve	1,360,337	-	1,360,337
Undesignated	8,854,162	-	8,854,162
With restrictions	-	3,895,750	3,895,750
Total net assets	10,214,499	3,895,750	14,110,249
Totals	\$12,409,896	\$4,071,218	\$16,481,114

See accompanying notes to consolidated financial statements.



**LOUISIANA STATE BAR ASSOCIATION  
AND AFFILIATES**

**Consolidated Statement of Financial Position**

June 30, 2019

	<u>Without Restrictions</u>	<u>With Restrictions</u>	<u>Totals</u>
<b><u>ASSETS</u></b>			
<b>Current Assets</b>			
Cash and cash equivalents	\$ 2,762,133	\$1,260,011	\$ 4,022,144
Accounts receivable	263,548	33,421	296,969
Receivable from LCJC	52,243	-	52,243
Accrued interest receivable	17,951	-	17,951
Prepaid expenses	70,219	8,277	78,496
	<hr/>	<hr/>	<hr/>
Total current assets	3,166,094	1,301,709	4,467,803
<b>Investments</b>	8,414,577	1,356,232	9,770,809
<b>Property and Equipment, net</b>	1,771,751	2,638	1,774,389
<b>Deposits</b>	-	2,250	2,250
	<hr/>	<hr/>	<hr/>
Totals	<u>\$13,352,422</u>	<u>\$2,662,829</u>	<u>\$16,015,251</u>
<b><u>LIABILITIES AND NET ASSETS</u></b>			
<b>Current Liabilities</b>			
Unearned revenue	\$ 2,806,984	\$ -	\$ 2,806,984
Accounts payable and accrued expenses	481,372	63,303	544,675
	<hr/>	<hr/>	<hr/>
Total current liabilities	3,288,356	63,303	3,351,659
<b>Net Assets</b>			
Without restrictions:			
Board-designated capital reserve	1,195,213	-	1,195,213
Undesignated	8,868,853	-	8,868,853
With restrictions	-	2,599,526	2,599,526
	<hr/>	<hr/>	<hr/>
Total net assets	10,064,066	2,599,526	12,663,592
	<hr/>	<hr/>	<hr/>
Totals	<u>\$13,352,422</u>	<u>\$2,662,829</u>	<u>\$16,015,251</u>

See accompanying notes to consolidated financial statements.

**LOUISIANA STATE BAR ASSOCIATION  
AND AFFILIATES**

**Consolidated Statement of Activities**

For the year ended June 30, 2020

	Without Restrictions	With Restrictions	Totals
<b>Support, Revenue, Gains, and Reclassifications</b>			
Membership dues	\$ 4,095,080	\$ 198,237	\$ 4,293,317
Mandatory continuing legal education	667,089	-	667,089
Seminars, conferences, programs, and luncheons	694,965	100,027	794,992
Royalties	474,974	-	474,974
Contributions and grants	-	1,584,906	1,584,906
Advertising	251,981	-	251,981
Annual meeting	17,750	-	17,750
Lawyer advertising filing fees	124,075	-	124,075
Disciplinary assessment processing	36,965	-	36,965
Gain (loss) on investments, net	(37,212)	17,881	(19,331)
Interest and dividends	208,770	43,962	252,732
Rental income	51,324	-	51,324
Sales of membership labels	6,370	-	6,370
Penalties	11,750	3,350	15,100
Sales of brochures and books	-	-	-
Miscellaneous income	96,550	-	96,550
Net assets released from restrictions	652,139	(652,139)	-
	<u>7,352,570</u>	<u>1,296,224</u>	<u>8,648,794</u>
Total support, revenue, gains, and reclassifications			

	<u>Without Restrictions</u>	<u>With Restrictions</u>	<u>Totals</u>
<b>Expenses</b>			
Program services:			
Governance	650,442	-	650,442
Communications and publications	570,332	-	570,332
Member outreach and diversity	344,378	-	344,378
Membership services and meetings	212,786	-	212,786
Governmental relations	39,032	-	39,032
Access to Justice	599,766	-	599,766
Practice management and assistance	1,791,951	-	1,791,951
Information technology	494,062	-	494,062
Mandatory CLE	296,443	-	296,443
Membership and finance	515,003	-	515,003
Judges and Lawyers Assistance Program	541,005	-	541,005
Louisiana Center for Law and Civic Education	121,635	-	121,635
Sections	187,455	-	187,455
Legal Specialization Fund	129,170	-	129,170
Total program services	6,493,460	-	6,493,460
Supporting services:			
General operations	708,677	-	708,677
Total expenses	7,202,137	-	7,202,137
<b>Change in Net Assets</b>	150,433	1,296,224	1,446,657
<b>Net Assets</b>			
Beginning of year	10,064,066	2,599,526	12,663,592
End of year	<u>\$10,214,499</u>	<u>\$3,895,750</u>	<u>\$14,110,249</u>

See accompanying notes to consolidated financial statements.



**LOUISIANA STATE BAR ASSOCIATION  
AND AFFILIATES**

**Consolidated Statement of Activities**

For the year ended June 30, 2019

	<u>Without Restrictions</u>	<u>With Restrictions</u>	<u>Totals</u>
<b>Support, Revenue, Gains, and Reclassifications</b>			
Membership dues	\$ 4,103,920	\$ 201,360	\$ 4,305,280
Mandatory continuing legal education	597,281	-	597,281
Seminars, conferences, programs, and luncheons	1,007,381	106,187	1,113,568
Royalties	491,108	-	491,108
Contributions and grants	-	394,329	394,329
Advertising	215,855	-	215,855
Annual meeting	442,205	-	442,205
Lawyer advertising filing fees	140,000	-	140,000
Disciplinary assessment processing	30,387	-	30,387
Gain on investments, net	429,582	25,672	455,254
Interest and dividends	200,244	47,983	248,227
Rental income	51,324	-	51,324
Sales of membership labels	9,277	-	9,277
Penalties	12,050	2,300	14,350
Sales of brochures and books	40	-	40
Miscellaneous income	101,272	-	101,272
Net assets released from restrictions	898,982	(898,982)	-
	<u>8,730,908</u>	<u>(121,151)</u>	<u>8,609,757</u>
Total support, revenue, gains, and reclassifications			

	<u>Without Restrictions</u>	<u>With Restrictions</u>	<u>Totals</u>
<b>Expenses</b>			
Program services:			
Governance	797,881	-	797,881
Communications and publications	603,806	-	603,806
Member outreach and diversity	421,691	-	421,691
Membership services and meetings	532,405	-	532,405
Governmental relations	97,620	-	97,620
Access to Justice	618,716	-	618,716
Practice management and assistance	1,875,511	-	1,875,511
Information technology	585,186	-	585,186
Mandatory CLE	282,596	-	282,596
Membership and finance	489,554	-	489,554
Judges and Lawyers Assistance Program	649,829	-	649,829
Louisiana Center for Law and Civic Education	166,541	-	166,541
Sections	255,146	-	255,146
Legal Specialization Fund	130,593	-	130,593
Total program services	7,507,075	-	7,507,075
Supporting services:			
General operations	621,348	-	621,348
Total expenses	8,128,423	-	8,128,423
<b>Change in Net Assets</b>	602,485	(121,151)	481,334
<b>Net Assets</b>			
Beginning of year	9,461,581	2,720,677	12,182,258
End of year	<u>\$ 10,064,066</u>	<u>\$ 2,599,526</u>	<u>\$ 12,663,592</u>

See accompanying notes to consolidated financial statements.

**LOUISIANA STATE BAR ASSOCIATION  
AND AFFILIATES**

**Consolidated Statement of Functional Expenses**

For the year ended June 30, 2020

	Program Services						
	Governance	Communications and Publication	Member Outreach and Diversity	Membership Services and Meeting	Governmental Relations	Access To Justice	
<b>Expenses</b>							
Contributions and sponsorships	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Committees	37,118	-	-	5,874	5,001	2,268	17,841
Computer assisted legal research	-	-	-	-	-	-	124,644
Conferences	-	-	-	-	-	27,478	71,225
Depreciation	-	-	-	-	-	-	-
Directors - expenses	15,344	4,607	-	-	-	-	-
Dues and subscriptions	-	675	1,235	-	3,525	2,515	-
Equipment and improvements	-	-	-	-	-	-	-
Equipment rentals and supplies	-	-	-	-	-	-	-
House of Delegates	30,367	-	-	-	-	-	-
Insurance	-	-	-	-	-	-	-
Intern stipends	-	-	-	-	-	12,000	-
Internet	-	-	-	-	-	-	-
IT support	-	-	-	-	-	-	-
Lobbying	-	-	-	-	20,000	-	-
Local bar outreach	-	-	28,464	-	-	-	-
Louisiana Bar Journal	-	165,026	-	-	-	-	-
Meetings and summer school	-	-	-	31,421	-	-	-
Nominations and elections	19,693	-	-	-	-	-	-
Officers and board	111,334	-	-	-	-	-	-
Other expenses	251	-	1,508	2,676	-	-	2,424
Printing and postage	-	-	68	-	-	194	3,776
Professional services	-	-	-	-	-	-	-
Projects	-	-	9,432	-	-	8,460	-
Property management	-	-	-	-	-	-	-
Rent and lease expense	-	-	-	-	-	-	-
Salaries and benefits	403,179	394,139	267,584	170,775	10,506	531,376	1,176,180
Seminars and programs	-	-	20,923	-	-	7,005	365,234
Software and upgrades	-	-	-	-	-	-	-
Strategic planning	-	-	-	-	-	-	-
Supplies	1,187	606	2,665	87	-	1,711	8,062
Telephone	2,206	1,683	2,428	1,953	-	3,933	6,951
Travel and training	-	-	10,071	-	-	2,826	15,614
Utilities	-	-	-	-	-	-	-
Unrelated business income tax	-	3,596	-	-	-	-	-
Young lawyers division	29,763	-	-	-	-	-	-
<b>Total functional expenses</b>	<u>\$650,442</u>	<u>\$570,332</u>	<u>\$344,378</u>	<u>\$212,786</u>	<u>\$39,032</u>	<u>\$599,766</u>	<u>\$1,791,951</u>

See accompanying notes to consolidated financial statements.



Information Technology	Program Services						Total Program Expenses	Supporting Services	Total Expenses
	Mandatory CLE	Membership and Finance	JLAP	LCLCE	Sections	Legal Specialization Fund		General Operations	
\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,559	\$ -	\$ 55,559	\$ -	\$ 55,559
-	489	-	-	-	-	-	68,591	-	68,591
-	-	-	-	-	-	-	124,644	-	124,644
-	-	-	-	-	-	-	98,703	-	98,703
-	-	-	1,082	-	-	-	1,082	157,331	158,413
1,096	-	-	-	-	-	-	21,047	-	21,047
-	-	-	-	-	-	-	7,950	-	7,950
-	-	-	8,766	2,032	-	-	10,798	473	11,271
-	-	-	-	-	-	-	-	25,822	25,822
-	-	-	-	-	-	-	30,367	-	30,367
-	-	-	4,097	1,996	-	-	6,093	59,510	65,603
-	-	-	-	-	-	-	12,000	-	12,000
9,563	-	-	-	-	-	-	9,563	-	9,563
4,740	-	-	-	-	-	-	4,740	-	4,740
-	-	-	-	-	-	-	20,000	-	20,000
-	-	-	-	-	-	-	28,464	-	28,464
-	-	-	-	-	-	-	165,026	-	165,026
-	-	-	-	-	-	-	31,421	-	31,421
-	-	-	-	-	-	-	19,693	-	19,693
-	-	-	-	-	-	-	111,334	-	111,334
2,883	-	-	8,771	3,947	7,299	11,830	41,589	19,787	61,376
-	15,453	35,771	-	817	63	2,691	58,833	4,008	62,841
-	-	46,479	22,200	7,162	-	-	75,841	5,000	80,841
1,689	-	-	-	-	-	-	19,581	-	19,581
-	-	-	-	-	-	-	-	123,419	123,419
-	-	-	27,000	4,779	-	3,250	35,029	-	35,029
340,813	273,579	427,971	437,544	81,322	48,290	103,867	4,667,125	274,042	4,941,167
-	-	-	11,927	2,331	66,669	4,198	478,287	-	478,287
127,627	-	-	-	-	-	-	127,627	-	127,627
-	-	-	-	-	-	-	-	-	-
706	4,489	3,791	6,462	1,712	-	2,156	33,634	4,287	37,921
4,945	1,049	991	-	-	196	673	27,008	28,060	55,068
-	1,384	-	-	15,537	9,379	505	55,316	6,938	62,254
-	-	-	13,156	-	-	-	13,156	-	13,156
-	-	-	-	-	-	-	3,596	-	3,596
-	-	-	-	-	-	-	29,763	-	29,763
<u>\$494,062</u>	<u>\$296,443</u>	<u>\$515,003</u>	<u>\$541,005</u>	<u>\$121,635</u>	<u>\$187,455</u>	<u>\$129,170</u>	<u>\$6,493,460</u>	<u>\$708,677</u>	<u>\$7,202,137</u>

**LOUISIANA STATE BAR ASSOCIATION  
AND AFFILIATES**

**Consolidated Statement of Functional Expenses**

For the year ended June 30, 2019

	Program Services						Practice Management and Assistance
	Governance	Communications and Publications	Member Outreach and Diversity	Membership Services and Meeting	Governmental Relations	Access To Justice	
<b>Expenses</b>							
Contributions and sponsorships	\$ -	\$ -	\$ 5,000	\$ 5,000	\$ -	\$ -	\$ 13,000
Committees	23,498	150	-	4,002	18,953	1,992	24,655
Computer assisted legal research	-	-	-	-	-	-	125,242
Conferences	-	-	-	-	-	32,842	67,140
Depreciation	-	-	-	-	-	-	-
Directors - expenses	13,386	4,482	-	-	-	-	-
Dues and subscriptions	-	-	1,622	-	3,525	765	-
Equipment and improvements	-	-	-	-	-	-	-
Equipment rentals and supplies	-	-	-	-	-	-	-
House of Delegates	38,296	-	-	-	-	-	-
Insurance	-	-	-	-	-	-	-
Intern stipends	-	-	-	-	-	12,000	-
Internet	-	-	-	-	-	-	-
IT support	-	-	-	-	-	-	-
Lobbying	-	-	-	-	48,000	-	-
Local bar outreach	-	-	34,716	-	-	-	-
Louisiana Bar Journal	-	162,689	-	-	-	-	-
Meetings and summer school	-	-	-	347,810	-	-	-
Nominations and elections	28,402	-	-	-	-	-	-
Officers and board	179,509	-	-	-	-	-	-
Other expenses	175	3,241	1,000	2,451	-	-	2,108
Printing and postage	-	-	23	-	-	83	4,796
Professional services	-	-	-	-	-	-	-
Projects	-	1,568	27,312	-	-	13,705	-
Property management	-	-	-	-	-	-	-
Rent and lease expense	-	-	-	-	-	-	-
Salaries	393,045	387,986	265,120	171,184	27,142	518,472	1,138,278
Seminars and programs	-	-	72,526	-	-	16,304	463,130
Software and upgrades	-	-	-	-	-	-	-
Strategic planning	20,172	-	-	-	-	-	-
Supplies	1,976	1,254	4,009	69	-	2,407	9,750
Telephone	3,176	1,699	2,420	1,889	-	4,020	7,209
Travel and training	-	-	7,943	-	-	16,126	20,203
Utilities	-	-	-	-	-	-	-
Unrelated business income tax	-	40,737	-	-	-	-	-
Young lawyers division	96,246	-	-	-	-	-	-
<b>Total functional expenses</b>	<u>\$797,881</u>	<u>\$603,806</u>	<u>\$421,691</u>	<u>\$532,405</u>	<u>\$97,620</u>	<u>\$618,716</u>	<u>\$1,875,511</u>

See accompanying notes to consolidated financial statements.

Information Technology	Program Services						Legal Specialization Fund	Total Program Expenses	Supporting Services	
	Mandatory CLE	Membership and Finance	JLAP	LCLCE	Sections	General Operations			Total Expenses	
\$ -	\$ -	\$ -	\$ 91,342	\$ -	\$ 99,820	\$ -	\$ 214,162	\$ -	\$ 214,162	
-	1,206	-	-	-	-	-	74,456	-	74,456	
-	-	-	-	-	-	-	125,242	-	125,242	
-	-	-	-	-	-	-	99,982	-	99,982	
-	-	-	3,820	-	-	-	3,820	167,385	171,205	
4,570	-	-	-	-	-	-	22,438	-	22,438	
-	-	-	-	-	-	-	5,912	-	5,912	
-	-	-	-	-	-	-	-	814	814	
-	-	-	7,146	2,121	-	-	9,267	31,586	40,853	
-	-	-	-	-	-	-	38,296	-	38,296	
-	-	-	4,246	1,895	-	-	6,141	33,642	39,783	
-	-	-	-	-	-	-	12,000	-	12,000	
10,797	(2,531)	-	-	-	-	-	8,266	-	8,266	
4,740	-	-	-	-	-	-	4,740	-	4,740	
-	-	-	-	-	-	-	48,000	-	48,000	
-	-	-	-	-	-	-	34,716	-	34,716	
-	-	-	-	-	-	-	162,689	-	162,689	
-	-	-	-	-	-	-	347,810	-	347,810	
-	-	-	-	-	-	-	28,402	-	28,402	
-	-	-	-	-	-	-	179,509	-	179,509	
-	10	-	10,052	3,100	22,092	2,677	46,906	5,146	52,052	
-	18,447	32,053	-	1,150	406	2,063	59,021	(1,508)	57,513	
-	-	30,138	22,898	6,813	-	6,500	66,349	-	66,349	
-	-	-	-	-	-	-	42,585	-	42,585	
-	-	-	-	-	-	-	-	135,596	135,596	
-	-	-	27,000	4,747	-	3,000	34,747	-	34,747	
396,460	255,666	421,347	413,408	85,385	51,850	103,533	4,628,876	207,592	4,836,468	
-	-	-	50,775	21,535	64,185	8,073	696,528	-	696,528	
163,136	-	-	-	-	-	-	163,136	-	163,136	
-	-	-	-	-	-	-	20,172	-	20,172	
134	6,027	4,953	5,868	3,112	-	1,869	41,428	(2,456)	38,972	
4,183	1,135	1,063	-	-	472	874	28,140	23,221	51,361	
1,166	2,636	-	-	36,683	15,321	2,004	102,082	20,330	122,412	
-	-	-	13,274	-	-	-	13,274	-	13,274	
-	-	-	-	-	-	-	40,737	-	40,737	
-	-	-	-	-	1,000	-	97,246	-	97,246	
<u>\$585,186</u>	<u>\$282,596</u>	<u>\$489,554</u>	<u>\$649,829</u>	<u>\$166,541</u>	<u>\$255,146</u>	<u>\$130,593</u>	<u>\$7,507,075</u>	<u>\$621,348</u>	<u>\$8,128,423</u>	



**LOUISIANA STATE BAR ASSOCIATION  
AND AFFILIATES**

**Consolidated Statements of Cash Flows**

For the years ended June 30, 2020 and 2019

	2020	2019
<b>Cash Flows From Operating Activities</b>		
Change in net assets	\$1,446,657	\$ 481,334
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Contributions to LCLCE endowment	-	(4,160)
Depreciation	158,413	171,205
Loss (gain) on investments	19,331	(455,254)
Decrease (increase) in accounts receivable	101,268	(230,330)
Decrease (increase) in receivable from LCJC	(910)	13,296
Decrease (increase) in accrued interest receivable	(620)	4,442
Decrease (increase) in prepaid expenses	(21,375)	23,666
Increase (decrease) in unearned revenue	(1,218,424)	1,888
Increase in accounts payable and accrued expenses	237,630	6,333
Net cash provided by operating activities	721,970	12,420
<b>Cash Flows From Investing Activities</b>		
Purchase of investments	(2,968,223)	(2,782,931)
Proceeds from sale of investments	2,513,136	2,923,081
Purchases of property and equipment	(93,554)	(27,847)
Net cash provided by (used in) investing activities	(548,641)	112,303
<b>Cash Flows From Financing Activities</b>		
Collections of contributions to LCLCE endowment	-	4,160
<b>Net Increase In Cash and Cash Equivalents</b>	173,329	128,883
<b>Cash and Cash Equivalents</b>		
Beginning of year	4,022,144	3,893,261
End of year	\$4,195,473	\$4,022,144
<b>Supplemental Disclosure of Cash Flow Information</b>		
Cash paid during the year for unrelated business income taxes	\$ 3,596	\$ 40,737

See accompanying notes to consolidated financial statements.

# LOUISIANA STATE BAR ASSOCIATION AND AFFILIATE

Notes to Consolidated Financial Statements  
June 30, 2020 and 2019

## Note 1 — ORGANIZATION AND NATURE OF ACTIVITIES

The Louisiana State Bar Association (the “Association” or LSBA) is a nonprofit corporation organized under the laws of the State of Louisiana (R.S.37:211). The objects and purposes of the Association are to regulate the practice of law, advance the science of jurisprudence, promote the administration of justice, uphold the honor of the Courts and the profession of law, encourage cordial intercourse among its members, and generally, to promote the welfare of the profession in the State of Louisiana. The Association is self-governing and its membership is comprised of all persons who are now, or may hereafter be, licensed to practice in the State of Louisiana.

## Note 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### a. Basis of Accounting

The financial statements of the Association are prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America.

### b. Consolidation Policy

The consolidated financial statements as of and for the years ended June 30, 2020 and 2019 include the accounts of the Association; Judges and Lawyers Assistance Program, Inc. (JLAP); and Louisiana Center for Law and Civic Education, Inc. (LCLCE), exempt organizations under Section 501(c)(3) of the Internal Revenue Code. Effective September 29, 2014, JLAP amended and restated its bylaws, making the Association its sole member. On June 7, 2010, the Association and LCLCE entered into an agreement through which the Association committed to provide funding to LCLCE and which gave the Association’s Board of Governors the power to appoint the Board of Directors of LCLCE. Both JLAP and LCLCE are consolidated due to the Association having both an economic interest in and control of the organizations. All material intra-entity transactions have been eliminated.

### c. Financial Statement Presentation

The Association’s net assets, support and revenues, and expenses are classified based on the existence or absence of restrictions. Accordingly, the net assets of the Association and changes therein are classified and reported as follows:

**Net Assets without Restrictions** - Net assets that are not subject to restrictions and may be expended for any purpose in performing the primary objectives of the Association. Certain unrestricted net assets have been designated by the Board of Governors for capital expenditures related to the Bar Center building.

**Net Assets with Restrictions** - Net assets subject to stipulations that may or will be met either by actions of the Association or its affiliates and/or the passage of time, or net assets that are maintained in perpetuity. The Association receives membership dues, conference fees, and other revenues which are to be expended and accounted for by the following specific accounts: Access to Justice Program - Project Grants; Access to Justice Program - Legal Services and Louisiana Bar Foundation Grants; Legal Malpractice Insurance Fund; Legal Specialization; Young Lawyers Division - Grant Fund; Young Lawyers Division - Bridging the Gap; and each of the other Section accounts created by the House of Delegates. These revenues are to be expended for the purposes of the related programs and Sections and are reported as net assets with restrictions until expended. During the year ended June 30, 2020, the Louisiana Supreme Court transferred \$1,281,466 in funds from its administration of the Mandatory Continuing Legal Education (MCLE) program to the Association. Fifty percent of the funds are restricted for funding JLAP and fifty percent of the funds are restricted for initiatives benefiting the education of new attorneys, including providing continuing legal education programs at no cost. The net assets of JLAP and LCLCE are restricted for use by those entities and, therefore, are presented as net assets with restrictions in the consolidated financial statements.

**d. Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

**e. Cash and Cash Equivalents**

For purposes of the consolidated statement of cash flows, the Association considers all highly liquid investments in money market funds to be cash equivalents.

**f. Investments**

Investments are reported at fair value. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See Note 6 for a discussion of fair value measurements.

Unrealized gains and losses on investments are included in the consolidated statement of activities as increases or decreases in net assets without restriction unless their use is restricted. Investment income and realized and unrealized gains and losses from the investment accounts referred to as the Core Investments are without restrictions. Investment income on the Legal Malpractice Insurance Fund, Legal Specialization Fund, LCLCE, and other Section accounts is restricted for use for those specific purposes.

**g. Property and Equipment**

Property and equipment acquisitions are recorded at cost. Depreciation is recorded over the estimated useful lives of the respective assets using the straight-line method. The useful lives range from 3 to 10 years for furniture and equipment, from 10 to 15 years for building improvements, and is 39 years for the building. Additions and major improvements are capitalized, while expenditures for maintenance and repairs are expensed as incurred.

**h. Unearned Revenue**

Unearned revenue consists of dues received in advance for the following year and registration fees received as of year end for seminars to be held in the following year.

**i. Revenue and Revenue Recognition**

Revenue is recognized when earned. Contributions are recognized when cash, securities, or other assets, an unconditional promises to give, or notification of a beneficial interest is received. Conditional promises to give are not recognized until the conditions on which they depend have been substantially met. Revenue derived from dues and registration fees are recognized in the period to which they relate.

**j. Contributed Services**

A portion of the Association's functions, including educational activities and publications, is conducted by unpaid volunteers. The value of this contributed time is not reflected in the accompanying consolidated financial statements since the volunteers' time does not meet the criteria for recognition under accounting principles generally accepted in the United States of America.

**k. Functional Expenses**

The financial statements report certain categories of expenses that are attributable to more than one program or supporting function. Therefore, these expenses require allocation on a reasonable basis that is consistently applied. Salaries and benefits are allocated based on estimates of time and effort. Utilities are allocated based on estimated usage by department. All other expenses are directly charged to the applicable program.

**l. Recently Issued Accounting Standards****Presentation of Financial Statements for Not-for-Profit Entities**

In August 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2016-14, *Not-for-Profit Entities (Topic 958): Presentation of Financial Statements for Not-for-Profit Entities*. The update addresses the complexity and understandability of net assets classification, deficiencies in information about liquidity and availability of resources, and the lack of consistency in the type of information provided about expenses and investment return. The Association adopted this update during the year ended June 30, 2019 and has adjusted the presentation of these consolidated financial statements accordingly. The ASU has been applied retrospectively to all periods presented.



**I. Recently Issued Accounting Standards (Continued)**

**Statement of Cash Flows**

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows* (Topic 230). ASU No. 2016-18 requires that a statement of cash flows explain the change during the period in the total cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Therefore, amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. ASU No. 2016-18 is effective for fiscal years beginning after December 15, 2018. The Association adopted the provisions of ASU No. 2016-18 during the year ended June 30, 2020. The adoption of the standard and its retrospective application had no impact on the June 30, 2020 or 2019 consolidated financial statements.

**Contributions Received and Contributions Made**

In June 2018, the FASB issued ASU No. 2018-08, *Not-for-Profit Entities* (Topic 958): *Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made*. ASU No. 2018-08 should assist entities in (1) evaluation whether transactions should be accounted for as contributions (nonreciprocal transactions) within the scope of Topic 958, or as exchange (reciprocal) transactions subject to other guidance and (2) determining whether a contribution is conditional. This new guidance is effective for fiscal years beginning after December 15, 2018 for contributions received. The Association adopted the provisions of ASU No. 2018-08 during the year ended June 30, 2020. The adoption of the standard and its retrospective application had no impact on the June 30, 2020 or 2019 consolidated financial statements.

**Revenue from Contracts with Customers**

In May 2014, the FASB issued ASU 2014-09, *Revenue from Contracts with Customers* (Topic 606), which provides a single comprehensive model for entities to use in accounting for revenue from contracts with customers and supersedes most current revenue recognition models. Subsequent to the issuance of ASU No. 2014-09, the FASB issued several additional ASUs which amended and clarified the guidance and deferred the effective date. The ASU is effective for annual reporting periods beginning after December 15, 2020. Management is currently evaluating the full effect that the adoption of this standard will have on the consolidated financial statements.

**m. Subsequent Events**

Management evaluates events occurring subsequent to the date of the consolidated financial statements in determining the accounting for and disclosure of transactions and events that affect the consolidated financial statements. Subsequent events have been evaluated through April 7, 2021, which is the date that the consolidated financial statements were available to be issued.

**Note 3 — CASH AND CASH EQUIVALENTS**

Cash and cash equivalents consist of the following as of June 30, 2020 and 2019:

	<u>2020</u>	<u>2019</u>
Without restrictions:		
LSBA	\$1,630,227	\$2,762,133
With restrictions:		
LSBA	2,013,846	811,915
LCLCE	270,126	244,173
JLAP	281,274	203,923
	<u>2,565,246</u>	<u>1,260,011</u>
Totals	<u>\$4,195,473</u>	<u>\$4,022,144</u>

**Note 4 — CONCENTRATION OF CREDIT RISK**

The Association periodically maintains cash and cash equivalents in bank accounts in excess of insured limits. The Association has not experienced any losses and does not believe that significant credit risk exists as a result of this practice. As of June 30, 2020, the Association had cash and cash equivalents of approximately \$2.9 million in excess of insured limits.

**Note 5 — INVESTMENTS**

Investments held as of June 30, 2020 and 2019 are summarized as follows:

	2020		2019	
	Cost	Fair Value	Cost	Fair Value
LSBA:				
Without restrictions:				
Common stock	\$2,763,990	\$ 5,084,658	\$3,143,076	\$5,060,400
Corporate bonds	3,661,872	3,507,897	3,126,194	3,354,177
Municipal bonds	207,033	206,472	-	-
With restrictions:				
Common stock	528,290	558,435	511,264	532,690
Corporate bonds	416,280	419,158	411,741	406,329
Variable annuity contract	418,998	418,998	406,761	406,761
Total - LSBA	7,996,463	10,195,618	7,599,036	9,760,357
LCLCE:				
With restrictions:				
Money market	336	336	251	251
Common stock	6,100	6,373	6,022	6,159
Government bonds	3,877	4,238	3,878	4,042
Total - LCLCE	10,313	10,947	10,151	10,452
Totals	\$8,006,776	\$10,206,565	\$7,609,187	\$9,770,809

Presented below is a summary of realized and unrealized gains and losses on investments for the years ended June 30, 2020 and 2019:

	2020		
	Cost	Fair Value	Excess of Fair Value Over Cost
Balances as of June 30, 2020	\$8,006,776	\$10,206,565	\$2,199,789
Balances as of June 30, 2019	\$7,609,187	\$ 9,770,809	2,161,622
Unrealized gain on investments			38,167
Realized loss on investments, net			(57,498)
Loss on investments, net			\$ (19,331)

	2019		
	Cost	Fair Value	Excess of Fair Value Over Cost
Balances as of June 30, 2019	\$7,609,187	\$ 9,770,809	\$2,161,622
Balances as of June 30, 2018	\$7,428,898	\$ 9,455,705	2,026,807
Unrealized gain on investments			134,815
Realized gain on investments			320,439
Gain on investments			<u>\$ 455,254</u>

Interest and dividends earned on investments for the years ended June 30, 2020 and 2019 were \$252,732 and \$248,227, respectively, net of investment expenses of \$41,642 and \$39,697, respectively.

**Note 6 — ASSETS MEASURED AT FAIR VALUE**

The framework for measuring fair value provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). The three levels of the fair value hierarchy under FASB ASC 820 are described as follows:

**Level 1** - Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Association has the ability to access.

**Level 2** - Inputs to the valuation methodology include:

- ▶ quoted prices for similar assets or liabilities in active markets;
- ▶ quoted prices for identical or similar assets or liabilities in inactive markets;
- ▶ inputs other than quoted prices that are observable for the asset or liability;
- ▶ inputs that are derived principally from or corroborated by observable market data by correlation or other means.

If the asset or liability has a specified (contractual) term, the Level 2 input must be observable for substantially the full term of the asset or liability.

**Level 3** - Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The asset's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

Following is a description of the valuation methodologies used for assets measured at fair value. There have been no changes in the methodologies used as of June 30, 2020 and 2019.

- ▶ *Common stock and exchange traded fund (ETF)*. Valued at the closing price reported on the active market on which the individual securities are traded.
- ▶ *Corporate and municipal bonds*. Valued using pricing models maximizing the use of observable inputs for similar securities. This includes basing value of yields currently available on comparable securities of issuers with similar credit ratings.



► *Money market funds.* Valued at the daily closing price as reported by the fund. Money market funds held by the Association are open-end mutual funds that are registered with the Securities and Exchange Commission. These funds are required to publish their daily net asset value (NAV) and to transact at that price. The mutual funds held by the Association are deemed to be actively traded.

► *Variable annuity contract.* Valued at cash redemption value as reported to the Association by MassMutual Financial Group.

These methodologies may produce fair value calculations that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while the Association believes these valuation methodologies are appropriate and consistent with those of other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

The following tables set forth by level within the fair value hierarchy, the Association's assets at fair value as of June 30, 2020 and 2019:

Description June 30, 2020	Total Assets Measured At Fair Value	Based on:		
		Quoted Prices In Active Markets (Level 1)	Other Observable Inputs (Level 2)	Unobservable Inputs (Level 3)
Investments:				
Common stock:				
Information technology	\$ 1,427,423	\$ 1,427,423	\$ -	\$ -
Health care	1,105,841	1,105,841	-	-
Consumer staples	543,137	543,137	-	-
Financials	615,316	615,316	-	-
Energy	231,519	231,519	-	-
Industrials	584,902	584,902	-	-
Consumer discretionary	546,276	546,276	-	-
Materials	92,294	92,294	-	-
Telecommunication	496,387	496,387	-	-
Other	6,709	6,709	-	-
Corporate bonds:				
Credit rating:				
A-	405,199	-	405,199	-
BB+	182,307	-	182,307	-
BBB+	739,860	-	739,860	-
BBB	934,042	-	934,042	-
BBB-	1,665,645	-	1,665,645	-
Municipal bond AA	206,472	206,472	-	-
Government bond ETF	4,238	4,238	-	-
Variable annuity contract	418,998	-	418,998	-
Totals - investments	10,206,565	5,860,514	4,346,051	-
Money market funds included in cash and cash equivalents				
	1,195,190	1,195,190	-	-
Totals	\$11,401,755	\$7,055,704	\$4,346,051	\$ -

Description	Total Assets Measured At Fair Value	Based on:		
		Quoted Prices In Active Markets (Level 1)	Other Observable Inputs (Level 2)	Unobservable Inputs (Level 3)
<u>June 30, 2019</u>				
Investments:				
Common stock:				
Information technology	\$ 1,550,969	\$ 1,550,969	\$ -	\$ -
Health care	1,011,970	1,011,970	-	-
Consumer staples	797,369	797,369	-	-
Financials	660,941	660,941	-	-
Energy	374,654	374,654	-	-
Industrials	597,121	597,121	-	-
Consumer discretionary	433,330	433,330	-	-
Materials	10,324	10,324	-	-
Telecommunication	156,412	156,412	-	-
Other	6,410	6,410	-	-
Corporate bonds:				
Credit rating:				
A-	504,587	-	504,587	-
AA-	200,135	-	200,135	-
BBB+	606,977	-	606,977	-
BBB	1,371,159	-	1,371,159	-
BBB-	1,077,648	-	1,077,648	-
Government bond ETF	4,042	4,042	-	-
Variable annuity contract	406,761	-	406,761	-
Totals - investments	9,770,809	5,603,542	4,167,267	-
Money market funds included in cash and cash equivalents				
	1,619,990	1,619,990	-	-
Totals	\$ 11,390,799	\$ 7,223,532	\$ 4,167,267	\$ -

**Note 7 — RISKS AND UNCERTAINTIES**

The Association invests in various investments including stocks and fixed income obligations. Investment securities, in general, are subject to various risks such as interest rate, credit, and overall market volatility. Due to the level of risk associated with certain investments, it is reasonably possible that changes in the values of investments could occur in the near term and that such change could materially affect amounts reported on the consolidated financial statements.

**Note 8 — PROPERTY AND EQUIPMENT**

Major classes of property and equipment as of June 30, 2020 and 2019 are summarized as follows:

	<u>2020</u>	<u>2019</u>
LSBA		
Louisiana Bar Center:		
Building	\$1,881,646	\$1,881,646
Improvements	1,840,219	1,746,665
Furniture and equipment	<u>982,642</u>	<u>982,642</u>
	4,704,507	4,610,953
Less accumulated depreciation	<u>(2,994,977)</u>	<u>(2,837,646)</u>
	<u>1,709,530</u>	<u>1,773,307</u>
LCLCE		
Library	30,133	30,133
Furniture and equipment	<u>2,199</u>	<u>2,199</u>
	32,332	32,332
Less accumulated depreciation	<u>(32,332)</u>	<u>(32,332)</u>
	<u>-</u>	<u>-</u>
JLAP		
Furniture and equipment	30,219	32,532
Less accumulated depreciation	<u>(30,219)</u>	<u>(31,450)</u>
	<u>-</u>	<u>1,082</u>
Property and equipment, net	<u>\$1,709,530</u>	<u>\$1,774,389</u>

Depreciation expense for the years ended June 30, 2020 and 2019 totaled \$158,413 and \$171,205, respectively.



**Note 9 — NET ASSETS WITH RESTRICTIONS**

Net assets with restrictions consisted of the following as of June 30, 2020 and 2019:

	2020	2019
Access to Justice Program - Project Grants	\$ 12,416	\$ 14,783
Fund for JLAP	640,733	-
Legal Malpractice Insurance Trust	1,117,837	1,075,338
Legal Specialization Fund	414,642	437,900
New Attorney Initiative	640,733	-
Young Lawyers Section - Grant Fund	47	47
Young Lawyers Section - Bridging the Gap	16,353	16,353
Sections:		
Administrative Law	7,754	7,509
Alternative Dispute Resolution	32,903	41,073
Animal Law	4,759	3,433
Antitrust and Trade Regulation Law	4,300	4,077
Appellate Section	12,919	11,669
Art, Entertainment, and Sports Law Section	3,901	3,061
Bankruptcy Law	14,882	20,578
Bench and Bar	8,155	8,342
Civil Law and Litigation	34,662	49,511
Class Action, Mass Tort, and Complex Litigation Law	8,320	5,540
Consumer Protection Law	6,780	6,670
Corporate and Business Law	60,806	65,027
Criminal Law	6,334	6,253
Environmental Law	9,257	7,276
Family Law	30,557	29,190
Fidelity, Surety, and Construction Law	35,339	34,344
Francophone	4,401	7,764
Government and Public Law	6,189	1,596
Health Law	18,537	21,017
Immigration Law	1,452	1,052
Insurance, Tort, Workers' Compensation, and Admiralty Law	17,481	13,697
Intellectual Property	10,991	11,434
International Law	4,962	4,729
Labor and Employment Law	20,441	15,988

	2020	2019
Sections: (Continued)		
Mineral Law	45,086	44,497
Minority Involvement	11,609	10,789
Public Utility	16,957	15,916
Solo and Small Firm	12,742	14,720
Taxation	42,490	53,701
Trusts, Estate, Probate, and Immovable Property Law	86,534	85,462
	<u>3,424,261</u>	<u>2,150,336</u>
Total net assets with purpose restrictions - LSBA		
Net assets with purpose restrictions - JLAP	233,006	227,736
Net assets with purpose restrictions - LCLCE	202,351	185,322
Net assets restricted in perpetuity - LCLCE	36,132	36,132
	<u>3,895,750</u>	<u>2,599,526</u>
Total net assets with restrictions		

**Note 10 — GOVERNING BOARD DESIGNATIONS**

The Association's Board of Governors has chosen to designate certain net assets for capital expenditures related to the Bar Center. Net assets without restrictions consisted of the following as of June 30, 2020 and 2019:

	2020	2019
Undesignated - available for operations	\$ 8,854,162	\$ 8,868,853
Designated - capital reserves	1,360,337	1,195,213
	<u>\$ 10,214,499</u>	<u>\$ 10,064,066</u>
Total net assets without restrictions		

**Note 11 — RENTAL INCOME**

A portion of the Louisiana Bar Center building not currently needed for the Association's operations is rented to the Judiciary Commission of Louisiana under a month-to-month lease which commenced on July 1, 2016. Rental income for the years ended June 30, 2020 and 2019 totaled \$51,324 per year.

**Note 12 — RETIREMENT PLAN**

The Association has a defined contribution plan covering substantially all employees who meet certain eligibility requirements. The plan is a profit-sharing plan with a cash or deferred arrangement. The contributions during the years ended June 30, 2020 and 2019 totaled \$327,156 and \$325,057, respectively.

**Note 13 — CONSOLIDATED AFFILIATES**

As discussed in Note 2b, effective June 7, 2010, the Association entered into an agreement with LCLCE which gave it an economic interest in and control of LCLCE. The Association committed to provide annual funding to LCLCE annually for an initial term of five years with automatic renewals in one-year increments unless either party elects to terminate the agreement. During the year ended June 30, 2020 and 2019, funding totaled \$63,000 per year. Net assets of the consolidated affiliate totaling \$238,483 and \$221,454 have been included in the Consolidated Statements of Financial Position as of June 30, 2020 and 2019, respectively.

As discussed in Note 2b, effective September 29, 2014, JLAP amended and restated its bylaws, making LSBA its sole member. The Association has committed to providing annual funding to JLAP in an amount to be determined annually. Net assets of JLAP totaling \$233,006 and \$227,736 have been included in the Consolidated Statements of Financial Position as of June 30, 2020 and 2019, respectively.

**Note 14 — RELATED PARTIES**

The Association and the Louisiana Civil Justice Center (LCJC) are separate functioning organizations sharing a common mission. The Association's Board of Governors appoints the LCJC Board of Governors. LSBA provided \$10,000 per year to LCJC during the years ended June 30, 2020 and 2019. During the years ended June 30, 2020 and 2019, the LCJC occupied space on the third floor of the Bar Center building rent free. Additionally, LSBA processes payroll for LCJC. As of June 30, 2020 and 2019 payroll funds receivable from LCJC totaled \$53,153 and \$52,243, respectively.

The Association and the Louisiana Client Assistance Foundation (LCAF) are separately functioning organizations sharing a common mission. The Association's Board of Governors appoints the LCAF Board of Governors. No financial support was provided by the Association to LCAF during the years ended June 30, 2020 and 2019.

**Note 15 — INCOME TAXES**

The Association is exempt from federal income taxes under Section 501(c)(6) of the Internal Revenue Code and qualifies as an organization that is not a private foundation as defined in Section 509(a) of the Internal Revenue Code. It is exempt from state income taxes under Section 121(6) of Title 47 of the Louisiana Revised Statutes of 1950. Net operating profits from unrelated business income, if any, are subject to federal income tax. The Association had taxable unrelated business income for the years ended June 30, 2020 and 2019 of approximately \$89,000 and \$15,000, respectively.

Accounting principles generally accepted in the United States of America require management to evaluate tax positions taken by the Association and recognize a tax liability (or asset) if the Association has taken an uncertain position that more likely than not would not be sustained upon examination by the Internal Revenue Service or other taxing authorities. Management has analyzed the tax positions taken by the Association, and has concluded that as of June 30, 2020 and 2019, there are no uncertain positions taken or expected to be taken that would require recognition of a liability (or asset) or disclosure in the financial statements. The Association is subject to routine audits by taxing jurisdictions; however, there are currently no audits for any tax periods in progress.

**Note 16 — AVAILABILITY OF FINANCIAL ASSETS**

The Association is substantially supported by membership dues, seminar and conference fees, and investment income. Certain programs of the Association are also supported by contributions, which typically are restricted by the donor for use in that program. Because a restriction requires resources to be used in a particular manner or in a future period, the Association must maintain sufficient resources to meet those responsibilities to its donors. Thus, certain financial assets may not be available for general expenditure within one year. As part of the Association's liquidity management, it has a policy to structure its financial assets to be available as its general expenditures, liabilities, and other obligations become due. The Association has established guidelines for making decisions related to managing short-term cash reserves and other investments in a prudent manner.



**Note 16 — AVAILABILITY OF FINANCIAL ASSETS (Continued)**

The following reflects the Association's financial assets as of June 30, 2020 and 2019, reduced by amounts not available for general use due to restrictions.

	2020	2019
Financial assets:		
Cash and cash equivalents	\$ 4,195,473	\$ 4,023,636
Accounts receivables	195,701	296,969
Receivable from LCJC	53,153	52,243
Accrued interest receivable	18,571	17,951
Investments	10,206,565	9,770,809
Total financial assets	14,669,463	14,161,608
Less amounts unavailable for general expenditures within one year, due to:		
Assets with restrictions:		
Restricted as to purpose	(3,859,618)	(2,563,394)
Restricted in perpetuity	(36,132)	(36,132)
Financial assets available to meet cash needs for general expenditures within one year before governing board designations	10,773,713	11,562,082
Less: governing board designations	(1,360,337)	(1,195,213)
Financial assets available to meet cash needs for general expenditures within one year	\$ 9,413,376	\$10,366,869

**Note 17 — COMMITMENT**

Since 2005, the Association has had an agreement with Fastcase.com, Inc. ("Fastcase"), to provide members of the Association with unlimited access to the Fastcase legal research system. Effective in June 2018, the agreement was extended for an additional five-year term. At the end of the term, the agreement will automatically renew in one year increments until such time either party elects to terminate the agreement. Fees under this agreement totaled \$125,242 for each of the years ended June 30, 2020 and 2019. Fees under the agreement will be \$125,242 for each of the years from June 30, 2021 through June 30, 2022.

**Note 18 — SUBSEQUENT EVENT**

The Coronavirus (COVID-19) pandemic has continued to develop rapidly throughout 2020. Measures taken by Federal, state, and local governments to contain the virus have continued to affect the Association's activities. The Association has taken measures to monitor and mitigate the effects of COVID-19 on its members and employees, such as social distancing, working from home, and canceling in-person seminars. The Association will continue to follow government advice and policies and will continue its operations in the best and safest way possible to protect the health of its members and employees.

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# Stuck in the Sixties

By E. Phelps Gay

**B**orn in 1952, a teenager in the 1960s, now an irrelevant old geezer, I am, musically speaking, a serious dinosaur. Speaking of serious, while driving around listening to Sirius-XM radio, one of my default options is the 60s channel. There I can wallow in the great rock and soul sounds of that turbulent decade — the soundtrack, if you will, of my youth — from the Beatles to the Supremes, Aretha Franklin to the Rolling Stones, the Byrds to the Temptations, Smokey Robinson to Simon and Garfunkel, Bob Dylan to Marvin Gaye, and I am barely scratching the surface. As even those born decades later will readily attest, it was a high-water mark for popular music. Somewhat condescendingly, I came to pity those who came of age during the dark era known as disco.

I was thinking how thoroughly this youthful immersion in 1960s music and culture came to permeate my grown-up life as a lawyer. Like Mark Twain imagining a Connecticut Yankee relocated to King Arthur's Court, I began to imagine a 1960s lawyer plopped down into today's courtroom.

The lawyer has filed a motion seeking dismissal of a claim based on an exclusion in an automobile policy. He is running late and gets a call from the judge's law clerk.

"Sir, where are you? The judge has called your case on the docket."

"Hold On, I'm Comin'."

"Well, you might show a little *Respect* to the court."

"Please, *Try a Little Tenderness*."

"Sir, *You Can't Do That*."

Thirty minutes later, our time-traveling friend arrives in court, out of breath, wearing a faded work shirt with his tie askew, clearly in need of a haircut. The judge has heard from her clerk that the lawyer's vocabulary is weirdly intertwined with 1960s lyrics and song titles. She decides to play along.

"You're late again, counsel. I want you to know this will be *The Last Time*."

"Apologies, Judge, *I Should Have Known Better*."

"*I Second That Emotion*. So, let's hear your argument."

"Well, Judge, the defendant driver was under the age of 21 at the time of the accident. Therefore, he was not covered under

this garage policy. He had no *Ticket to Ride*."

"But his father gave permission, right? In effect, he said, *Baby, You Can Drive My Car*."

The lawyer continues to argue the point but senses no *Good Vibrations* from the bench. His words *like silent raindrops fell*.

Finally, the judge says, "I've looked at this from *Both Sides Now*. I agree the policy language is clear, but I find the exclusion has no rational basis and is against public policy."

Desperate, the lawyer responds, "Judge, *You Really Got a Hold on Me*, but *I Ain't Too Proud to Beg*. Would you please *Think* — *think about what you're trying to do to me*."

Judge: "I appreciate your passion, sir, but I'm afraid my ruling is final."

Lawyer: "*I Can't Get No Satisfaction*."

"*For What It's Worth*," the judge says, "*with every mistake we must surely be learning*."

"You're telling me this is over?"

Judge: "Let me be succinct: *Hit the Road Jack*."

Later that day, the lawyer gets a call from his insurance client. Eager to learn the fate of this important policy exclusion, the claims representative asks: "Did you win or lose?"

Replies the lawyer: "*I'm a Loser*."

Claims rep: "Well, it's *nothing to get hung about*."

Slightly encouraged, the lawyer, who had been fearful of losing the client, asks: "Will you *Stand By Me*?"

Mulling over his response to this difficult question, the client lapses into song in a noticeably raspy voice: "The answer, my friend, is *Blowin' in the Wind*."



E. Phelps Gay is a partner and former managing partner of Christovich & Kearney, LLP. He also is an arbitrator and mediator with The Patterson Resolution Group. A graduate of Princeton University and Tulane Law School, he served as 2000-01 president of the Louisiana State Bar Association and as 2016-17 president of the Louisiana Association of Defense Counsel. (epgay@christovich.com; Ste. 2300, 601 Poydras St., New Orleans, LA 70130)





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